

TAX AMENDMENTS

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne L. Niederhauser

House Sponsor: John Dougall

LONG TITLE

General Description:

This bill amends the Revenue and Taxation title and the Rural Health Services chapter.

Highlighted Provisions:

This bill:

- ▶ modifies the membership of the Utah Tax Review Commission to include the chairs of the Revenue and Taxation Interim Committee;
- ▶ repeals a repeal date for tax credits for research activities in the state;
- ▶ increases the percentage of expenses or payments that serve as the basis for calculating tax credits for research activities in the state;
- ▶ provides a nonrefundable tax credit equal to 5% of a taxpayer's qualified research expenses for the current taxable year in addition to other tax credits for research activities in the state allowed under current statute;
- ▶ provides that the tax credits for qualified research expenses may not be carried forward;
- ▶ requires a review of the tax credits for research activities in the state by the Utah Tax Review Commission;
- ▶ extends the availability of the renewable energy tax credit;
- ▶ provides for the Utah Tax Review Commission to review the renewable energy tax credit;
- ▶ expands the renewable energy tax credit to include some geothermal sources;
- ▶ makes the renewable energy tax credit on commercial energy systems a refundable tax credit;

- 30 ▶ changes the calculation of the tax credit for commercial energy systems;
- 31 ▶ removes language reimbursing the Uniform School Fund for renewable energy tax
- 32 credits taken;
- 33 ▶ provides that a tax under the Individual Income Tax Act that is imposed on the basis
- 34 of graduated brackets and rates may not be imposed for taxable years beginning on
- 35 or after January 1, 2008;
- 36 ▶ provides and modifies definitions;
- 37 ▶ reduces the single rate individual income tax rate from 5.35% to 5%;
- 38 ▶ enacts a nonrefundable tax credit under the Single Rate Individual Income Tax Act
- 39 allowed on the basis of:
 - 40 • the deductions a person claims; and
 - 41 • personal exemptions;
- 42 ▶ enacts nonrefundable retirement tax credits under the Single Rate Individual Income
- 43 Tax Act;
- 44 ▶ phases out the above nonrefundable tax credits under the Single Rate Individual
- 45 Income Tax Act at certain income levels;
- 46 ▶ requires the apportionment of the above nonrefundable tax credits under the Single
- 47 Rate Individual Income Tax Act for a nonresident individual or part-year resident
- 48 individual;
- 49 ▶ modifies the definition of "prosthetic device," the sale of which is exempt from sales
- 50 and use taxation, to include a dental prosthesis;
- 51 ▶ reduces the state sales and use tax rate from 4.75% to 4.65%;
- 52 ▶ reduces the state sales and use tax rate imposed on food and food ingredients, except
- 53 with respect to certain bundled transactions;
- 54 ▶ provides a sales and use tax exemption for certain machinery, equipment, or repair
- 55 or replacement parts purchased or leased by certain establishments relating to mining
- 56 that are listed under the North American Industry Classification System;
- 57 ▶ modifies State Tax Commission rulemaking authority;

58 ▶ authorizes certain counties, cities, or towns to increase certain tax rates from .25%
59 to .30% and exempts those tax rate increases from voter approval requirements;
60 ▶ provides that food and food ingredients are not subject to certain local sales and use
61 taxes, except with respect to certain bundled transactions;
62 ▶ addresses State Tax Commission notice requirements to enact, repeal, or change the
63 tax rate of certain local sales and use taxes;
64 ▶ creates a restricted special revenue fund to distribute monies to fund rural health care
65 facilities and services that are impacted by providing that food and food ingredients
66 are not generally subject to local sales and use taxes for rural health care facilities
67 and services, including:
68 • addressing the distribution and expenditure of fund revenues; and
69 • providing that unexpended monies remaining in the fund at the end of a fiscal
70 year lapse into the General Fund;
71 ▶ requires the State Tax Commission to provide data to the executive director of the
72 Department of Health;
73 ▶ increases the maximum tax rate for the resort communities local sales and use tax
74 from 1% to 1.1%;
75 ▶ enacts an additional state sales and use tax and provides that the revenues collected
76 from the tax shall be deposited into the General Fund;
77 ▶ provides a nonrefundable tax credit under the Multi-Channel Video or Audio Service
78 Tax Act for a multi-channel video or audio service provider;
79 ▶ requires a multi-channel video or audio service provider to pass through an amount
80 equal to the tax credit to purchasers located within the state;
81 ▶ provides that a tax on amounts paid or charged for multi-channel video or audio
82 service may not be reduced as a result of the amount a multi-channel video or audio
83 service provider passes through to its customers within the state;
84 ▶ requires a Revenue and Taxation Interim Committee study on repealing the state
85 individual income tax imposed on the basis of graduated brackets and rates; and

86 ▶ makes technical changes.

87 **Monies Appropriated in this Bill:**

88 This bill appropriates:

89 ▶ for fiscal year 2007-08 only, \$277,500 from the General Fund to the Rural Health

90 Care Facilities Fund; and

91 ▶ as an ongoing appropriation subject to future budget constraints, \$555,000 from the

92 General Fund for fiscal year 2008-09 to the Rural Health Care Facilities Fund.

93 **Other Special Clauses:**

94 This bill provides effective dates and provides for retrospective operation.

95 This bill provides revisor instructions.

96 This bill coordinates with H.B. 27, Sales and Use Tax Modifications, by merging

97 substantive amendments.

98 **Utah Code Sections Affected:**

99 AMENDS:

100 **59-1-210**, as last amended by Chapter 271, Laws of Utah 1995

101 **59-1-901**, as last amended by Chapter 243, Laws of Utah 1996

102 **59-7-612**, as last amended by Chapter 9, Laws of Utah 2001

103 **59-10-104**, as last amended by Chapter 2, Laws of Utah 2006, Fourth Special Session

104 **59-10-1012**, as renumbered and amended by Chapter 223, Laws of Utah 2006

105 **59-10-1014**, as renumbered and amended by Chapter 223, Laws of Utah 2006

106 **59-10-1202**, as enacted by Chapter 2, Laws of Utah 2006, Fourth Special Session

107 **59-10-1203**, as enacted by Chapter 2, Laws of Utah 2006, Fourth Special Session

108 **59-12-102**, as last amended by Chapter 1, Laws of Utah 2006, Fourth Special Session

109 **59-12-103**, as last amended by Chapter 9, Laws of Utah 2006, Third Special Session

110 **59-12-104**, as last amended by Chapters 181, 182, 217, 218, 219, 220, 246, 268 and

111 346, Laws of Utah 2006

112 **59-12-401**, as last amended by Chapter 253, Laws of Utah 2006

113 **59-12-402**, as last amended by Chapter 253, Laws of Utah 2006

114 **59-12-403**, as last amended by Chapter 253, Laws of Utah 2006
115 **59-12-501**, as last amended by Chapter 253, Laws of Utah 2006
116 **59-12-502**, as last amended by Chapters 253 and 329, Laws of Utah 2006
117 **59-12-504**, as last amended by Chapter 253, Laws of Utah 2006
118 **59-12-703**, as last amended by Chapter 253, Laws of Utah 2006
119 **59-12-802**, as last amended by Chapters 253 and 302, Laws of Utah 2006
120 **59-12-804**, as last amended by Chapter 253, Laws of Utah 2006
121 **59-12-1001**, as last amended by Chapter 253, Laws of Utah 2006
122 **59-12-1302**, as last amended by Chapter 253, Laws of Utah 2006
123 **59-12-1402**, as last amended by Chapter 253, Laws of Utah 2006
124 **59-12-1503**, as last amended by Chapter 253, Laws of Utah 2006
125 **59-12-1703**, as enacted by Chapter 1, Laws of Utah 2006, Fourth Special Session
126 **59-26-102**, as enacted by Chapter 300, Laws of Utah 2004
127 **59-26-103**, as enacted by Chapter 300, Laws of Utah 2004

128 **ENACTS:**

129 **26-9-4**, Utah Code Annotated 1953
130 **59-10-1106**, Utah Code Annotated 1953
131 **59-10-1206.1**, Utah Code Annotated 1953
132 **59-10-1206.2**, Utah Code Annotated 1953
133 **59-10-1206.9**, Utah Code Annotated 1953
134 **59-12-1801**, Utah Code Annotated 1953
135 **59-12-1802**, Utah Code Annotated 1953
136 **59-12-1803**, Utah Code Annotated 1953
137 **59-26-104.5**, Utah Code Annotated 1953

138 **REPEALS AND REENACTS:**

139 **59-7-614**, as last amended by Chapter 223, Laws of Utah 2006

140 **Uncodified Material Affected:**

141 **ENACTS UNCODIFIED MATERIAL**

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **26-9-4** is enacted to read:

26-9-4. Rural Health Care Facilities Fund -- Source of revenues -- Interest -- Distribution of revenues -- Expenditure of revenues -- Unexpended revenues lapse into the General Fund.

(1) As used in this section:

(a) "Emergency medical services" is as defined in Section 26-8a-102.

(b) "Federally qualified health center" is as defined in 42 U.S.C. Sec. 1395x.

(c) "Fiscal year" means a one-year period beginning on July 1 of each year.

(d) "Freestanding urgent care center" is as defined in Section 59-12-801.

(e) "Fund" means the Rural Health Care Facilities Fund created by this section.

(f) "Nursing care facility" is as defined in Section 26-21-2.

(g) "Rural city hospital" is as defined in Section 59-12-801.

(h) "Rural county health care facility" is as defined in Section 59-12-801.

(i) "Rural county hospital" is as defined in Section 59-12-801.

(j) "Rural county nursing care facility" is as defined in Section 59-12-801.

(k) "Rural emergency medical services" is as defined in Section 59-12-801.

(l) "Rural health clinic" is as defined in 42 U.S.C. Sec. 1395x.

(2) There is created a restricted special revenue fund known as the Rural Health Care Facilities Fund.

(3) (a) The fund shall be funded by amounts appropriated by the Legislature.

(b) Any interest earned on the fund shall be deposited into the General Fund.

(4) Subject to Subsection (5), the executive director shall for a fiscal year distribute monies deposited into the fund to each:

(a) county legislative body of a county that, on January 1, 2007, imposes a tax in accordance with Section 59-12-802; or

(b) city legislative body of a city that, on January 1, 2007, imposes a tax in accordance

with Section 59-12-804.

(5) (a) For purposes of the distribution required by Subsection (4), the executive director shall:

(i) estimate for each county and city described in Subsection (4) the amount by which the revenues collected from the taxes imposed under Sections 59-12-802 and 59-12-804 for fiscal year 2005-06 would have been reduced had:

(A) the amendments made by this bill to Sections 59-12-802 and 59-12-804 been in effect for fiscal year 2005-06; and

(B) each county and city described in Subsection (4) imposed the tax under Sections 59-12-802 and 59-12-804 for the entire fiscal year 2005-06;

(ii) calculate a percentage for each county and city described in Subsection (4) by dividing the amount estimated for each county and city in accordance with Subsection (5)(a)(i) by \$555,000; and

(iii) distribute to each county and city described in Subsection (4) an amount equal to the product of:

(A) the percentage calculated in accordance with Subsection (5)(a)(ii); and

(B) the amount appropriated by the Legislature to the fund for the fiscal year.

(b) The executive director shall make the estimations, calculations, and distributions required by Subsection (5)(a) on the basis of data provided to the executive director by the State Tax Commission.

(6) (a) Subject to Subsection (6)(b), a county legislative body shall distribute the monies the county legislative body receives in accordance with Subsection (5):

(i) for a county of the third, fourth, or fifth class, to fund rural county health care facilities in that county; and

(ii) for a county of the sixth class, to fund:

(A) emergency medical services in that county;

(B) federally qualified health centers in that county;

(C) freestanding urgent care centers in that county;

198 (D) rural county health care facilities in that county;

199 (E) rural health clinics in that county; or

200 (F) a combination of Subsections (6)(a)(ii)(A) through (E).

201 (b) A county legislative body shall distribute a percentage of the monies the county
202 legislative body receives in accordance with Subsection (5) to each center, clinic, facility, or
203 service described in Subsection (6)(a) equal to the same percentage that the county legislative
204 body distributes to that center, clinic, facility, or service in accordance with Section 59-12-803
205 for the calendar year ending on the December 31 immediately preceding the first day of the
206 fiscal year for which the county legislative body receives the distribution in accordance with
207 Subsection (5).

208 (c) A center, clinic, facility, or service that receives a distribution in accordance with
209 this Subsection (6) shall expend that distribution for the same purposes for which monies
210 generated by a tax under Section 59-12-802 may be expended.

211 (7) (a) Subject to Subsection (7)(b), a city legislative body shall distribute the monies
212 the city legislative body receives in accordance with Subsection (5) to fund rural city hospitals in
213 that city.

214 (b) A city legislative body shall distribute a percentage of the monies the city legislative
215 body receives in accordance with Subsection (5) to each rural city hospital described in
216 Subsection (7)(a) equal to the same percentage that the city legislative body distributes to that
217 rural city hospital in accordance with Section 59-12-805 for the calendar year ending on the
218 December 31 immediately preceding the first day of the fiscal year for which the city legislative
219 body receives the distribution in accordance with Subsection (5).

220 (c) A rural city hospital that receives a distribution in accordance with this Subsection
221 (7) shall expend that distribution for the same purposes for which monies generated by a tax
222 under Section 59-12-804 may be expended.

223 (8) Any monies remaining in the Rural Health Care Facilities Fund at the end of a fiscal
224 year after the executive director makes the distributions required by this section shall lapse into
225 the General Fund.

Section 2. Section **59-1-210** is amended to read:

59-1-210. General powers and duties.

The powers and duties of the commission are as follows:

(1) to sue and be sued in its own name;

(2) to adopt rules and policies consistent with the Constitution and laws of this state to govern the commission, executive director, division directors, and commission employees in the performance of their duties;

(3) to adopt rules and policies consistent with the Constitution and laws of the state, to govern county boards and officers in the performance of any duty relating to assessment, equalization, and collection of taxes;

(4) to prescribe the use of forms relating to the assessment of property for state or local taxation, the equalization of those assessments, the reporting of property or income for state or local taxation purposes, or for the computation of those taxes and the reporting of any information, statistics, or data required by the commission;

(5) to administer and supervise the tax laws of the state;

(6) to prepare and maintain from year to year a complete record of all lands subject to taxation in this state, and all machinery used in mining and all property or surface improvements upon or appurtenant to mines or mining claims;

(7) to exercise general supervision over assessors and county boards of equalization including the authority to enforce Section 59-2-303.1, and over other county officers in the performance of their duties relating to the assessment of property and collection of taxes, so that all assessments of property are just and equal, according to fair market value, and that the tax burden is distributed without favor or discrimination;

(8) to reconvene any county board of equalization which, when reconvened, may only address business approved by the commission and extend the time for which any county board of equalization may sit for the equalization of assessments;

(9) to confer with, advise, and direct county treasurers, assessors, and other county officers in matters relating to the assessment and equalization of property for taxation and the

254 collection of taxes;

255 (10) to provide for and hold annually at such time and place as may be convenient a
256 district or state convention of county assessors, auditors, and other county officers to consider
257 and discuss matters relative to taxation, uniformity of valuation, and changes in the law relative
258 to taxation and methods of assessment, to which county assessors and other officers called to
259 attend shall attend at county expense;

260 (11) to direct proceedings, actions, and prosecutions to enforce the laws relating to the
261 penalties, liabilities, and punishments of public officers, persons, and officers or agents of
262 corporations for failure or neglect to comply with the statutes governing the reporting,
263 assessment, and taxation of property;

264 (12) to cause complaints to be made in the proper court seeking removal from office of
265 assessors, auditors, members of county boards, and other assessing, taxing, or disbursing
266 officers, who are guilty of official misconduct or neglect of duty;

267 (13) to require county attorneys to immediately institute and prosecute actions and
268 proceedings in respect to penalties, forfeitures, removals, and punishments for violations of the
269 laws relating to the assessment and taxation of property in their respective counties;

270 (14) to require any person to furnish any information required by the commission to
271 ascertain the value and the relative burden borne by all kinds of property in the state, and to
272 require from all state and local officers any information necessary for the proper discharge of
273 the duties of the commission;

274 (15) to examine all records relating to the valuation of property of any person;

275 (16) to subpoena witnesses to appear and give testimony and produce records relating
276 to any matter before the commission;

277 (17) to cause depositions of witnesses to be taken as in civil actions at the request of
278 the commission or any party to any matter or proceeding before the commission;

279 (18) to authorize any member or employee of the commission to administer oaths and
280 affirmations in any matter or proceeding relating to the exercise of the powers and duties of the
281 commission;

(19) to visit periodically each county of the state, to investigate and direct the work and methods of local assessors and other officials in the assessment, equalization, and taxation of property, and to ascertain whether the law requiring the assessment of all property not exempt from taxation, and the collection of taxes, have been properly administered and enforced;

(20) to carefully examine all cases where evasion or violation of the laws for assessment and taxation of property is alleged, to ascertain whether existing laws are defective or improperly administered;

(21) to furnish to the governor from time to time such assistance and information as the governor requires;

(22) to transmit to the governor and to each member of the Legislature recommendations as to legislation which will correct or eliminate defects in the operation of the tax laws and will equalize the burden of taxation within the state;

(23) to correct any error in any assessment made by it at any time before the tax is due and report the correction to the county auditor, who shall enter the corrected assessment upon the assessment roll;

(24) to compile and publish statistics relating to taxation in the state and prepare and submit an annual budget to the governor for inclusion in the state budget to be submitted to the Legislature;

(25) to perform any further duties imposed by law, and exercise all powers necessary in the performance of its duties;

(26) to adopt a schedule of fees assessed for services provided by the commission, unless otherwise provided by statute. The fee shall be reasonable and fair, and shall reflect the cost of services provided. Each fee established in this manner shall be submitted to and approved by the Legislature as part of the commission's annual appropriations request. The commission may not charge or collect any fee proposed in this manner without approval by the Legislature; ~~and~~

(27) to comply with the procedures and requirements of Title 63, Chapter 46b, Administrative Procedures Act, in its adjudicative proceedings[-]; and

(28) to provide data to the executive director of the Department of Health for purposes of the distributions required by Section 26-9-4.

Section 3. Section **59-1-901** is amended to read:

59-1-901. Creation -- Members -- Terms.

(1) There is created a state commission to be known as the Utah Tax Review Commission.

(2) (a) The ~~[review commission]~~ Utah Tax Review Commission shall be composed of ~~[14]~~ 16 members as follows:

(i) ~~[Two]~~ two members shall be appointed by the speaker of the House of Representatives from the House of Representatives, not more than one of whom may be from the same political party[-];

(ii) ~~[Two]~~ two members shall be appointed by the president of the Senate from the Senate, not more than one of whom may be from the same political party[-];

(iii) ~~[Five]~~ five members shall be appointed by the governor, not more than three of whom may be from the same political party[-];

(iv) ~~[A]~~ one member who is a member of the State Tax Commission, appointed by the State Tax Commission, shall be an ex officio member of the ~~[review commission-]~~ Utah Tax Review Commission;

(v) one member who is the House of Representatives chair of the Revenue and Taxation Interim Committee shall be an ex officio member of the Utah Tax Review Commission; and

(vi) one member who is the Senate chair of the Revenue and Taxation Interim Committee shall be an ex officio member of the Utah Tax Review Commission.

(b) The ~~[ten]~~ 12 members appointed under Subsection (2)(a) shall then select four additional members with consideration to be given to achieving ethnic, cultural, and gender diversity, representation from the major geographical areas of the state, and equal bipartisan representation.

(3) (a) Except for members appointed under Subsections (2)(a)(i) ~~[and]~~, (ii), (v), and

(vi), and except as required by Subsection (3)(b), members shall be appointed to four-year terms.

(b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of commission members are staggered so that approximately half of the commission is appointed every two years.

Section 4. Section **59-7-612** is amended to read:

59-7-612. Tax credits for research activities conducted in the state -- Carry forward -- Commission to report modification or repeal of certain federal provisions -- Utah Tax Review Commission study.

(1) (a) ~~[For taxable years beginning on or after January 1, 1999, but beginning before December 31, 2010, a]~~ A taxpayer meeting the requirements of this section ~~[shall qualify for]~~ may claim the following nonrefundable tax credits ~~[for increasing research activities in this state]:~~

(i) a research tax credit of ~~[6%]~~ 7% of the taxpayer's qualified research expenses for the current taxable year that exceed the base amount provided for under Subsection (4); ~~[and]~~

(ii) a tax credit for payments to qualified organizations for basic research as provided in Section 41(e), Internal Revenue Code, of ~~[6%]~~ 7% for the current taxable year that exceed the base amount provided for under Subsection (4) ~~[-]; and~~

(iii) a tax credit equal to 5% of the taxpayer's qualified research expenses for the current taxable year.

~~[(b) If a taxpayer qualifying for a credit under Subsection (1)(a) seeks to claim the credit, the taxpayer shall:]~~

(b) (i) Except as provided in Subsection (1)(b)(ii), a taxpayer may:

[(i)] (A) claim the tax credit or a portion of the tax credit for the taxable year immediately following the taxable year for which the taxpayer qualifies for the tax credit;

[(ii)] (B) carry forward the tax credit or a portion of the tax credit [forward] as provided in Subsection ~~[(4)(f)] (5); or~~

366 ~~[(iii)]~~ (C) claim a portion of the tax credit and carry forward a portion of the tax credit
367 as provided in Subsections (1)(b)(i)(A) and ~~[(ii)]~~ (B).

368 (ii) A taxpayer may not carry forward the tax credit allowed by Subsection (1)(a)(iii).

369 (c) The tax credits provided for in this section do not include the alternative incremental
370 credit provided for in Section 41(c)(4), Internal Revenue Code.

371 (2) For purposes of claiming a tax credit under this section, a unitary group as defined
372 in Section 59-7-101 is considered to be one taxpayer.

373 (3) Except as specifically provided for in this section:

374 (a) the tax credits authorized under Subsection (1) shall be calculated as provided in
375 Section 41, Internal Revenue Code; and

376 (b) the definitions provided in Section 41, Internal Revenue Code, apply in calculating
377 the tax credits authorized under Subsection (1).

378 (4) For purposes of this section:

379 (a) the base amount shall be calculated as provided in Sections 41(c) and 41(h), Internal
380 Revenue Code, except that:

381 (i) the base amount does not include the calculation of the alternative incremental credit
382 provided for in Section 41(c)(4), Internal Revenue Code;

383 (ii) a taxpayer's gross receipts include only those gross receipts attributable to sources
384 within this state as provided in Part 3, Allocation and Apportionment of Income -- Utah
385 UDITPA Provisions; and

386 (iii) notwithstanding Section 41(c), Internal Revenue Code, for purposes of calculating
387 the base amount, a taxpayer:

388 (A) may elect to be treated as a start-up company as provided in Section 41(c)(3)(B)
389 regardless of whether the taxpayer meets the requirements of Section 41(c)(3)(B)(i)(I) or (II);
390 and

391 (B) may not revoke an election to be treated as a start-up company under Subsection
392 (4)(a)(iii)(A);

393 (b) "basic research" is as defined in Section 41(e)(7), Internal Revenue Code, except

that the term includes only basic research conducted in this state;

(c) "qualified research" is as defined in Section 41(d), Internal Revenue Code, except that the term includes only qualified research conducted in this state;

(d) "qualified research expenses" is as defined and calculated in Section 41(b), Internal Revenue Code, except that the term includes only ~~[those expenses incurred in conducting qualified research in this state;]~~:

(i) in-house research expenses incurred in this state; and

(ii) contract research expenses incurred in this state; and

(e) ~~[notwithstanding the provisions of Section 41(h), Internal Revenue Code, the credits]~~ a tax credit provided for in this section ~~[shall]~~ is not ~~[terminate]~~ terminated if ~~[the credits terminate]~~ a credit terminates under Section 41, Internal Revenue Code~~[-and]~~.

~~[(f) notwithstanding the provisions of Sections 39 and 41(g), Internal Revenue Code, governing the carry forward and carry back of federal tax credits, if]~~

(5) If the amount of a tax credit claimed by a taxpayer under ~~[this section]~~ Subsection (1)(a)(i) or (ii) exceeds the taxpayer's tax liability under this chapter for a taxable year, the amount of the tax credit exceeding the tax liability:

~~[(i)]~~ (a) may be carried forward for a period that does not exceed the next 14 taxable years; and

~~[(ii)]~~ (b) may not be carried back to a taxable year preceding the current taxable year.

~~[(5)]~~ (6) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may make rules for purposes of this section prescribing a certification process for qualified organizations to ensure that amounts paid to the qualified organizations are for basic research conducted in this state.

~~[(6)]~~ (7) If a ~~[federal tax credit under]~~ provision of Section 41, Internal Revenue Code, is modified or repealed, the commission shall report the modification or repeal to the Utah Tax Review Commission within 60 days after the day on which the modification or repeal becomes effective.

~~[(7)]~~ (8) (a) ~~[Except as provided in Subsection (7)(b), the]~~ The Utah Tax Review

Commission shall review the tax credits provided for in this section on or before [~~the earlier of:~~
(~~ti~~)] October 1 of the year after the year in which the commission reports under Subsection [~~(6)~~]
(7) a modification or repeal of a [~~federal tax credit under~~] provision of Section 41, Internal
Revenue Code[; or (ii) ~~October 1, 2004~~].

(b) Notwithstanding Subsection [~~(7)~~] (8)(a), the Utah Tax Review Commission is not
required to review the tax credits provided for in this section if the only modification to a
[~~federal tax credit under~~] provision of Section 41, Internal Revenue Code, is the extension of
the termination date provided for in Section 41(h), Internal Revenue Code.

(c) The Utah Tax Review Commission shall address in a review under this section [~~the~~]:

(i) the cost of the [credit] tax credits provided for in this section;

(ii) the purpose and effectiveness of the [credit] tax credits provided for in this section;

(iii) whether the [credit benefits] tax credits provided for in this section benefit the state;

and

(iv) whether the [credit] tax credits provided for in this section should be:

(A) continued;

(B) modified; or

(C) repealed.

(d) If the Utah Tax Review Commission reviews the tax credits provided for in this
section, the Utah Tax Review Commission shall report its findings to the Revenue and Taxation
Interim Committee on or before the November interim meeting of the year in which the Utah
Tax Review Commission reviews the tax credits.

Section 5. Section **59-7-614** is repealed and reenacted to read:

**59-7-614. Renewable energy systems tax credit -- Definitions -- Limitations --
State tax credit in addition to allowable federal credits -- Certification -- Rulemaking
authority.**

(1) As used in this section:

(a) "Active solar system":

(i) means a system of equipment capable of collecting and converting incident solar

radiation into thermal, mechanical, or electrical energy, and transferring these forms of energy by a separate apparatus to storage or to the point of use; and

(ii) includes water heating, space heating or cooling, and electrical or mechanical energy generation.

(b) "Biomass system" means any system of apparatus and equipment for use in converting material into biomass energy, as defined in Section 59-12-102, and transporting that energy by separate apparatus to the point of use or storage.

(c) "Business entity" means any sole proprietorship, estate, trust, partnership, association, corporation, cooperative, or other entity under which business is conducted or transacted.

(d) "Commercial energy system" means any active solar, passive solar, geothermal electricity, direct-use geothermal, geothermal heat-pump system, wind, hydroenergy, or biomass system used to supply energy to a commercial unit or as a commercial enterprise.

(e) "Commercial enterprise" means a business entity whose purpose is to produce electrical, mechanical, or thermal energy for sale from a commercial energy system.

(f) (i) "Commercial unit" means any building or structure that a business entity uses to transact its business.

(ii) Notwithstanding Subsection (1)(f)(i):

(A) in the case of an active solar system used for agricultural water pumping or a wind system, each individual energy generating device shall be a commercial unit; and

(B) if an energy system is the building or structure that a business entity uses to transact its business, a commercial unit is the complete energy system itself.

(g) "Direct-use geothermal system" means a system of apparatus and equipment enabling the direct use of thermal energy, generally between 100 and 300 degrees Fahrenheit, that is contained in the earth to meet energy needs, including heating a building, an industrial process, and aquaculture.

(h) "Geothermal electricity" means energy contained in heat that continuously flows outward from the earth that is used as a sole source of energy to produce electricity.

(i) "Geothermal heat-pump system" means a system of apparatus and equipment enabling the use of thermal properties contained in the earth at temperatures well below 100 degrees Fahrenheit to help meet heating and cooling needs of a structure.

(j) "Hydroenergy system" means a system of apparatus and equipment capable of intercepting and converting kinetic water energy into electrical or mechanical energy and transferring this form of energy by separate apparatus to the point of use or storage.

(k) "Individual taxpayer" means any person who is a taxpayer as defined in Section 59-10-103 and an individual as defined in Section 59-10-103.

(l) "Passive solar system":

(i) means a direct thermal system that utilizes the structure of a building and its operable components to provide for collection, storage, and distribution of heating or cooling during the appropriate times of the year by utilizing the climate resources available at the site; and

(ii) includes those portions and components of a building that are expressly designed and required for the collection, storage, and distribution of solar energy.

(m) "Residential energy system" means any active solar, passive solar, biomass, direct-use geothermal, geothermal heat-pump system, wind, or hydroenergy system used to supply energy to or for any residential unit.

(n) "Residential unit" means any house, condominium, apartment, or similar dwelling unit that serves as a dwelling for a person, group of persons, or a family but does not include property subject to a fee under:

(i) Section 59-2-404;

(ii) Section 59-2-405;

(iii) Section 59-2-405.1;

(iv) Section 59-2-405.2; or

(v) Section 59-2-405.3.

(o) "Utah Geological Survey" means the Utah Geological Survey established in Section 63-73-5.

(p) "Wind system" means a system of apparatus and equipment capable of intercepting

506 and converting wind energy into mechanical or electrical energy and transferring these forms of
507 energy by a separate apparatus to the point of use, sale, or storage.

508 (2) (a) (i) For taxable years beginning on or after January 1, 2007, a business entity that
509 purchases and completes or participates in the financing of a residential energy system to supply
510 all or part of the energy required for a residential unit owned or used by the business entity and
511 situated in Utah is entitled to a nonrefundable tax credit as provided in this Subsection (2)(a).

512 (ii) (A) A business entity is entitled to a tax credit equal to 25% of the reasonable costs
513 of each residential energy system installed with respect to each residential unit it owns or uses,
514 including installation costs, against any tax due under this chapter for the taxable year in which
515 the energy system is completed and placed in service.

516 (B) The total amount of each credit under this Subsection (2)(a) may not exceed \$2,000
517 per residential unit.

518 (C) The credit under this Subsection (2)(a) is allowed for any residential energy system
519 completed and placed in service on or after January 1, 2007.

520 (iii) If a business entity sells a residential unit to an individual taxpayer before making a
521 claim for the tax credit under this Subsection (2)(a), the business entity may:

522 (A) assign its right to this tax credit to the individual taxpayer; and

523 (B) if the business entity assigns its right to the tax credit to an individual taxpayer
524 under Subsection (2)(a)(iii)(A), the individual taxpayer may claim the tax credit as if the
525 individual taxpayer had completed or participated in the costs of the residential energy system
526 under Section 59-10-1014.

527 (b) (i) For taxable years beginning on or after January 1, 2007, a business entity that
528 purchases or participates in the financing of a commercial energy system situated in Utah is
529 entitled to a refundable tax credit as provided in this Subsection (2)(b) if the commercial energy
530 system does not use wind, geothermal electricity, or biomass equipment capable of producing a
531 total of 660 or more kilowatts of electricity, and:

532 (A) the commercial energy system supplies all or part of the energy required by
533 commercial units owned or used by the business entity; or

534 (B) the business entity sells all or part of the energy produced by the commercial energy
535 system as a commercial enterprise.

536 (ii) (A) A business entity is entitled to a tax credit of up to 10% of the reasonable costs
537 of any commercial energy system installed, including installation costs, against any tax due
538 under this chapter for the taxable year in which the commercial energy system is completed and
539 placed in service.

540 (B) Notwithstanding Subsection (2)(b)(ii)(A), the total amount of the credit under this
541 Subsection (2)(b) may not exceed \$50,000 per commercial unit.

542 (C) The credit under this Subsection (2)(b) is allowed for any commercial energy
543 system completed and placed in service on or after January 1, 2007.

544 (iii) A business entity that leases a commercial energy system installed on a commercial
545 unit is eligible for the tax credit under this Subsection (2)(b) if the lessee can confirm that the
546 lessor irrevocably elects not to claim the credit.

547 (iv) Only the principal recovery portion of the lease payments, which is the cost
548 incurred by a business entity in acquiring a commercial energy system, excluding interest
549 charges and maintenance expenses, is eligible for the tax credit under this Subsection (2)(b).

550 (v) A business entity that leases a commercial energy system is eligible to use the tax
551 credit under this Subsection (2)(b) for a period no greater than seven years from the initiation of
552 the lease.

553 (vi) A tax credit allowed by this Subsection (2)(b) may not be carried forward or carried
554 back.

555 (c) (i) For taxable years beginning on or after January 1, 2007, a business entity that
556 owns a commercial energy system situated in Utah using wind, geothermal electricity, or
557 biomass equipment capable of producing a total of 660 or more kilowatts of electricity is
558 entitled to a refundable tax credit as provided in this Subsection (2)(c) if:

559 (A) the commercial energy system supplies all or part of the energy required by
560 commercial units owned or used by the business entity; or

561 (B) the business entity sells all or part of the energy produced by the commercial energy

562 system as a commercial enterprise.

563 (ii) (A) A business entity is entitled to a tax credit under this section equal to the
564 product of:

565 (I) 0.35 cents; and

566 (II) the kilowatt hours of electricity produced and either used or sold during the taxable
567 year.

568 (B) (I) The credit calculated under Subsection (2)(c)(ii)(A) may be claimed for
569 production occurring during a period of 48 months beginning with the month in which the
570 commercial energy system is placed in commercial service.

571 (II) The credit allowed by this Subsection (2)(c) for each year may not be carried
572 forward or carried back.

573 (C) The credit under this Subsection (2)(c) is allowed for any commercial energy
574 system completed and placed in service on or after January 1, 2007.

575 (iii) A business entity that leases a commercial energy system installed on a commercial
576 unit is eligible for the tax credit under this Subsection (2)(c) if the lessee can confirm that the
577 lessor irrevocably elects not to claim the credit.

578 (d) (i) A tax credit under Subsection (2)(a) or (b) may be claimed for the taxable year in
579 which the energy system is completed and placed in service.

580 (ii) Additional energy systems or parts of energy systems may be claimed for
581 subsequent years.

582 (iii) If the amount of a tax credit under Subsection (2)(a) exceeds a business entity's tax
583 liability under this chapter for a taxable year, the amount of the credit exceeding the liability may
584 be carried forward for a period which does not exceed the next four taxable years.

585 (3) (a) The tax credits provided for under Subsection (2) are in addition to any tax
586 credits provided under the laws or rules and regulations of the United States.

587 (b) (i) The Utah Geological Survey may set standards for residential and commercial
588 energy systems claiming a credit under Subsections (2)(a) and (b) that cover the safety,
589 reliability, efficiency, leasing, and technical feasibility of the systems to ensure that the systems

590 eligible for the tax credit use the state's renewable and nonrenewable energy resources in an
591 appropriate and economic manner.

592 (ii) The Utah Geological Survey may set standards for residential and commercial
593 energy systems that establish the reasonable costs of an energy system, as used in Subsections
594 (2)(a)(ii)(A) and (2)(b)(ii)(A), as an amount per unit of energy production.

595 (iii) A tax credit may not be taken under Subsection (2) until the Utah Geological
596 Survey has certified that the energy system has been completely installed and is a viable system
597 for saving or production of energy from renewable resources.

598 (c) The Utah Geological Survey and the commission may make rules in accordance
599 with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, that are necessary to
600 implement this section.

601 (4) (a) On or before October 1, 2012, and every five years thereafter, the Utah Tax
602 Review Commission shall review each tax credit provided by this section and make
603 recommendations to the Revenue and Taxation Interim Committee concerning whether the
604 credit should be continued, modified, or repealed.

605 (b) The Utah Tax Review Commission's report under Subsection (4)(a) shall include
606 information concerning the cost of the credit, the purpose and effectiveness of the credit, and
607 the state's benefit from the credit.

608 Section 6. Section **59-10-104** is amended to read:

609 **59-10-104. Tax basis -- Rates -- Adjustment for changes in the consumer price**
610 **index -- Exemption.**

611 (1) Except as provided in Subsection (5) or Part 12, Single Rate Individual Income Tax
612 Act, for taxable years beginning on or after January 1, 2006, but beginning on or before
613 December 31, 2007, a tax is imposed on the state taxable income of every resident individual as
614 provided in this section.

615 (2) For an individual, other than a husband and wife or head of household required to
616 use the tax table under Subsection (3), the tax under this section is imposed in accordance with
617 the following income brackets:

| | | |
|-----|--|------------------------------------|
| 618 | If the state taxable income is: | The tax is: |
| 619 | Less than or equal to \$1,000 | 2.3% of the state taxable income |
| 620 | Greater than \$1,000 but less than | \$23, plus 3.3% of state taxable |
| 621 | or equal to \$2,000 | income greater than \$1,000 |
| 622 | Greater than \$2,000 but less than | \$56, plus 4.2% of state taxable |
| 623 | or equal to \$3,000 | income greater than \$2,000 |
| 624 | Greater than \$3,000 but less than | \$98, plus 5.2% of state taxable |
| 625 | or equal to \$4,000 | income greater than \$3,000 |
| 626 | Greater than \$4,000 but less than | \$150, plus 6% of state taxable |
| 627 | or equal to \$5,500 | income greater than \$4,000 |
| 628 | Greater than \$5,500 | \$240, plus 6.98% of state taxable |
| 629 | | income greater than \$5,500 |
| 630 | (3) For a husband and wife filing a single return jointly, or a head of household as | |
| 631 | defined in Section 2(b), Internal Revenue Code, filing a single return, the tax under this section | |
| 632 | is imposed in accordance with the following income brackets: | |
| 633 | If the state taxable income is: | The tax is: |
| 634 | Less than or equal to \$2,000 | 2.3% of the state taxable income |
| 635 | Greater than \$2,000 but less than | \$46, plus 3.3% of state taxable |
| 636 | or equal to \$4,000 | income greater than \$2,000 |
| 637 | Greater than \$4,000 but less than | \$112, plus 4.2% of state taxable |
| 638 | or equal to \$6,000 | income greater than \$4,000 |
| 639 | Greater than \$6,000 but less than | \$196, plus 5.2% of state taxable |
| 640 | or equal to \$8,000 | income greater than \$6,000 |
| 641 | Greater than \$8,000 but less than | \$300, plus 6% of state taxable |
| 642 | or equal to \$11,000 | income greater than \$8,000 |
| 643 | Greater than \$11,000 | \$480, plus 6.98% of state taxable |
| 644 | | income greater than \$11,000 |
| 645 | (4) (a) For taxable years beginning on or after January 1, 2009, the commission shall: | |

(i) make the following adjustments to the income brackets under Subsection (2):

(A) increase or decrease the income brackets under Subsection (2) by a percentage equal to the percentage difference between the consumer price index for the preceding calendar year and the consumer price index for the calendar year 2007; and

(B) after making an increase or decrease under Subsection (4)(a)(i)(A), round the income brackets under Subsection (2) to the nearest whole dollar;

(ii) after making the adjustments described in Subsection (4)(a)(i) to the income brackets under Subsection (2), adjust the income brackets under Subsection (3) so that for each income bracket under Subsection (2) there is a corresponding income bracket under Subsection (3) that is equal to the product of:

(A) each income bracket under Subsection (2); and

(B) two; and

(iii) to the extent necessary to reflect an adjustment under Subsection (4)(a)(i) or (ii):

(A) increase or decrease the amount of tax under Subsection (2) or (3) prior to adding in the portion of the tax calculated as a percentage of state taxable income; and

(B) after making an increase or decrease under Subsection (4)(a)(iii)(A), round the amount of tax under Subsection (2) or (3) to the nearest whole dollar.

(b) The commission may not increase or decrease the tax rate percentages provided in Subsection (2) or (3).

(c) For purposes of Subsection (4)(a)(i), the commission shall calculate the consumer price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

(5) This section does not apply to a resident individual exempt from taxation under Section 59-10-104.1.

Section 7. Section **59-10-1012** is amended to read:

59-10-1012. Tax credits for research activities conducted in the state -- Carry forward -- Commission to report modification or repeal of certain federal provisions -- Utah Tax Review Commission study.

(1) (a) [~~For taxable years beginning on or after January 1, 1999, but beginning before~~

~~December 31, 2010, a]~~ A claimant, estate, or trust meeting the requirements of this section
~~[shall qualify for]~~ may claim the following nonrefundable tax credits ~~[for increasing research~~
~~activities in this state]:~~

(i) a research tax credit of ~~[6%]~~ 7% of the claimant's, estate's, or trust's qualified
research expenses for the current taxable year that exceed the base amount provided for under
Subsection ~~[(4)]~~ (3); ~~[and]~~

(ii) a tax credit for payments to qualified organizations for basic research as provided in
Section 41(e), Internal Revenue Code of ~~[6%]~~ 7% for the current taxable year that exceed the
base amount provided for under Subsection ~~[(4)]~~ (3); and

(iii) a tax credit equal to 5% of the claimant's, estate's, or trust's qualified research
expenses for the current taxable year.

~~(b) (i) [If a claimant, estate, or trust qualifying for a tax credit under Subsection (1)(a)~~
~~seeks to claim the tax credit, the]~~ Except as provided in Subsection (1)(b)(ii), a claimant, estate,
or trust [shall] may:

~~[(i)]~~ (A) claim the tax credit or a portion of the tax credit for the taxable year
immediately following the taxable year for which the claimant, estate, or trust qualifies for the
tax credit;

~~[(ii)]~~ (B) carry forward the tax credit or a portion of the tax credit ~~[forward]~~ as
provided in Subsection (4)~~[(f)]~~; or

~~[(iii)]~~ (C) claim a portion of the tax credit and carry forward a portion of the tax credit
as provided in Subsections (1)(b)(i)(A) and ~~[(ii)]~~ (B).

(ii) A claimant, estate, or trust may not carry forward the tax credit allowed by
Subsection (1)(a)(iii).

(c) The tax credits provided for in this section do not include the alternative incremental
credit provided for in Section 41(c)(4), Internal Revenue Code.

~~[(2) For purposes of claiming a tax credit under this section, a unitary group as defined~~
~~in Section 59-7-101 is considered to be one claimant.]~~

~~[(3)]~~ (2) Except as specifically provided for in this section:

(a) the tax credits authorized under Subsection (1) shall be calculated as provided in Section 41, Internal Revenue Code; and

(b) the definitions provided in Section 41, Internal Revenue Code, apply in calculating the tax credits authorized under Subsection (1).

~~[(4)]~~ (3) For purposes of this section:

(a) the base amount shall be calculated as provided in Sections 41(c) and 41(h), Internal Revenue Code, except that:

(i) the base amount does not include the calculation of the alternative incremental credit provided for in Section 41(c)(4), Internal Revenue Code;

(ii) a claimant's, estate's, or trust's gross receipts include only those gross receipts attributable to sources within this state as provided in Section 59-10-118; and

(iii) notwithstanding Section 41(c), Internal Revenue Code, for purposes of calculating the base amount, a claimant, estate, or trust:

(A) may elect to be treated as a start-up company as provided in Section 41(c)(3)(B) regardless of whether the claimant, estate, or trust meets the requirements of Section 41(c)(3)(B)(i)(I) or (II); and

(B) may not revoke an election to be treated as a start-up company under Subsection ~~[(4)]~~ (3)(a)(iii)(A);

(b) "basic research" is as defined in Section 41(e)(7), Internal Revenue Code, except that the term includes only basic research conducted in this state;

(c) "qualified research" is as defined in Section 41(d), Internal Revenue Code, except that the term includes only qualified research conducted in this state;

(d) "qualified research expenses" is as defined and calculated in Section 41(b), Internal Revenue Code, except that the term includes only ~~[those expenses incurred in conducting qualified research in this state;]~~;

(i) in-house research expenses incurred in this state; and

(ii) contract research expenses incurred in this state; and

(e) ~~[notwithstanding the provisions of Section 41(h), Internal Revenue Code, the tax~~

~~credits]~~ a tax credit provided for in this section ~~[shall]~~ is not ~~[terminate]~~ terminated if ~~[the~~
~~credits terminate]~~ a credit terminates under Section 41, Internal Revenue Code~~[-and]~~.

~~[(f) notwithstanding the provisions of Sections 39 and 41(g), Internal Revenue Code,~~
~~governing the carry forward and carry back of federal tax credits, if]~~

(4) If the amount of a tax credit claimed by a claimant, estate, or trust under ~~[this~~
~~section]~~ Subsection (1)(a)(i) or (ii) exceeds the claimant's, estate's, or trust's tax liability under
this chapter for a taxable year, the amount of the tax credit exceeding the tax liability:

~~[(i)]~~ (a) may be carried forward for a period that does not exceed the next 14 taxable
years; and

~~[(ii)]~~ (b) may not be carried back to a taxable year preceding the current taxable year.

(5) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
commission may make rules for purposes of this section prescribing a certification process for
qualified organizations to ensure that amounts paid to the qualified organizations are for basic
research conducted in this state.

(6) If a ~~[federal credit under]~~ provision of Section 41, Internal Revenue Code, is
modified or repealed, the commission shall report the modification or repeal to the Utah Tax
Review Commission within 60 days after the day on which the modification or repeal becomes
effective.

(7) (a) The Utah Tax Review Commission shall review the tax credits provided for in
this section on or before October 1 of the year after the year in which the commission reports
under Subsection (6) a modification or repeal of a provision of Section 41, Internal Revenue
Code.

(b) Notwithstanding Subsection (7)(a), the Utah Tax Review Commission is not
required to review the tax credits provided for in this section if the only modification to a
provision of Section 41, Internal Revenue Code, is the extension of the termination date
provided for in Section 41(h), Internal Revenue Code.

(c) The Utah Tax Review Commission shall address in a review under this section:

(i) the cost of the tax credits provided for in this section;

(ii) the purpose and effectiveness of the tax credits provided for in this section;

(iii) whether the tax credits provided for in this section benefit the state; and

(iv) whether the tax credits provided for in this section should be:

(A) continued;

(B) modified; or

(C) repealed.

(d) If the Utah Tax Review Commission reviews the tax credits provided for in this section, the Utah Tax Review Commission shall report its findings to the Revenue and Taxation Interim Committee on or before the November interim meeting of the year in which the Utah Tax Review Commission reviews the tax credits.

Section 8. Section **59-10-1014** is amended to read:

59-10-1014. Renewable energy systems tax credit -- Definitions -- Limitations -- State tax credit in addition to allowable federal credits -- Certification -- Rulemaking authority.

(1) As used in this part:

(a) "Active solar system":

(i) means a system of equipment capable of collecting and converting incident solar radiation into thermal, mechanical, or electrical energy, and transferring these forms of energy by a separate apparatus to storage or to the point of use; and

(ii) includes water heating, space heating or cooling, and electrical or mechanical energy generation.

(b) "Biomass system" means any system of apparatus and equipment [~~capable of converting organic plant, wood, or waste products into electrical and thermal energy and transferring these forms of energy by a separate apparatus to the point of use or storage~~] for use in converting material into biomass energy, as defined in Section 59-12-102, and transporting that energy by separate apparatus to the point of use or storage.

(c) "Business entity" means any entity under which business is conducted or transacted.

~~[(d) "Commercial energy system" means any active solar, passive solar, wind,~~

hydroenergy, or biomass system used to supply energy to a commercial unit or as a commercial enterprise;]

~~[(e) "Commercial enterprise" means a business entity whose purpose is to produce electrical, mechanical, or thermal energy for sale from a commercial energy system.]~~

~~[(f) (i) "Commercial unit" means any building or structure which that a business entity uses to transact its business, except as provided in Subsection (1)(f)(ii); and]~~

~~[(ii) (A) in the case of an active solar system used for agricultural water pumping or a wind system, each individual energy generating device shall be a commercial unit; and]~~

~~[(B) if an energy system is the building or structure which a business entity uses to transact its business, a commercial unit is the complete energy system itself.]~~

(d) "Direct-use geothermal system" means a system of apparatus and equipment enabling the direct use of thermal energy, generally between 100 and 300 degrees Fahrenheit, that is contained in the earth to meet energy needs, including heating a building, an industrial process, and aquaculture.

(e) "Geothermal electricity" means energy contained in heat that continuously flows outward from the earth that is used as a sole source of energy to produce electricity.

(f) "Geothermal heat-pump system" means a system of apparatus and equipment enabling the use of thermal properties contained in the earth at temperatures well below 100 degrees Fahrenheit to help meet heating and cooling needs of a structure.

(g) "Hydroenergy system" means a system of apparatus and equipment capable of intercepting and converting kinetic water energy into electrical or mechanical energy and transferring this form of energy by separate apparatus to the point of use or storage.

(h) "Passive solar system":

(i) means a direct thermal system [~~which~~] that utilizes the structure of a building and its operable components to provide for collection, storage, and distribution of heating or cooling during the appropriate times of the year by utilizing the climate resources available at the site; and

(ii) includes those portions and components of a building that are expressly designed

and required for the collection, storage, and distribution of solar energy.

(i) "Residential energy system" means any active solar, passive solar, biomass, direct-use geothermal, geothermal heat-pump system, wind, or hydroenergy system used to supply energy to or for any residential unit.

(j) "Residential unit" means any house, condominium, apartment, or similar dwelling unit ~~[which]~~ that serves as a dwelling for a person, group of persons, or a family but does not include property subject to a fee under:

(i) Section 59-2-404;

(ii) Section 59-2-405;

(iii) Section 59-2-405.1;

(iv) Section 59-2-405.2; or

(v) Section 59-2-405.3.

(k) "Utah Geological Survey" means the Utah Geological Survey established in Section 63-73-5.

(l) "Wind system" means a system of apparatus and equipment capable of intercepting and converting wind energy into mechanical or electrical energy and transferring these forms of energy by a separate apparatus to the point of use or storage.

(2) For taxable years beginning on or after January 1, ~~[2001]~~ 2007, ~~[but beginning on or before December 31, 2006,]~~ a claimant, estate, or trust may claim a nonrefundable tax credit as provided in this section if:

(a) a claimant, estate, or trust that is not a business entity purchases and completes or participates in the financing of a residential energy system to supply all or part of the energy for the claimant's, estate's, or trust's residential unit in the state; or

(b) (i) a claimant, estate, or trust that is a business entity sells a residential unit to another claimant, estate, or trust that is not a business entity ~~[prior to]~~ before making a claim for a tax credit under Subsection (6) or Section 59-7-614; and

(ii) the claimant, estate, or trust that is a business entity assigns its right to the tax credit to the claimant, estate, or trust that is not a business entity as provided in Subsection (6)(c) or

Subsection 59-7-614(2)(a)(iii).

(3) (a) The tax credit described in Subsection (2) is equal to 25% of the reasonable costs of ~~[the]~~ each residential energy system, including installation costs, against any income tax liability of the claimant, estate, or trust under this chapter for the taxable year in which the residential energy system is completed and placed in service.

(b) The total amount of ~~[the]~~ each tax credit under this section may not exceed \$2,000 per residential unit.

(c) The tax credit under this section is allowed for any residential energy system completed and placed in service on or after January 1, ~~[2001]~~ 2007~~[-but on or before December 31, 2006]~~.

(4) (a) The tax credit provided for in this section shall be claimed in the return for the taxable year in which the residential energy system is completed and placed in service.

(b) Additional residential energy systems or parts of residential energy systems may be similarly claimed in returns for subsequent taxable years as long as the total amount claimed does not exceed \$2,000 per residential unit.

(c) If the amount of the tax credit under this section exceeds the income tax liability of the claimant, estate, or trust claiming the tax credit under this section for that taxable year, then the amount not used may be carried over for a period ~~[which]~~ that does not exceed the next four taxable years.

(5) (a) A claimant, estate, or trust that is not a business entity that leases a residential energy system installed on a residential unit is eligible for the residential energy tax ~~[credits]~~ credit if that claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax credit.

(b) Only the principal recovery portion of the lease payments, which is the cost incurred by the claimant, estate, or trust in acquiring the residential energy system excluding interest charges and maintenance expenses, is eligible for the tax credits.

(c) A claimant, estate, or trust described in this Subsection (5) may use the tax credits for a period that does not exceed seven years from the initiation of the lease.

(6) (a) A claimant, estate, or trust that is a business entity that purchases and completes or participates in the financing of a residential energy system to supply all or part of the energy required for a residential unit owned or used by the claimant, estate, or trust that is a business entity and situated in Utah is entitled to a nonrefundable tax credit as provided in this Subsection (6).

(b) (i) For taxable years beginning on or after January 1, ~~[2001]~~ 2007, ~~[but beginning on or before December 31, 2006,]~~ a claimant, estate, or trust that is a business entity is entitled to a nonrefundable tax credit equal to 25% of the reasonable costs of a residential energy system installed with respect to each residential unit it owns or uses, including installation costs, against any tax due under this chapter for the taxable year in which the energy system is completed and placed in service.

(ii) The total amount of the tax credit under this Subsection (6) may not exceed \$2,000 per residential unit.

(iii) The tax credit under this Subsection (6) is allowed for any residential energy system completed and placed in service on or after January 1, ~~[2001]~~ 2007, ~~[but on or before December 31, 2006].~~

(c) If a claimant, estate, or trust that is a business entity sells a residential unit to a claimant, estate, or trust that is not a business entity ~~[prior to]~~ before making a claim for the tax credit under this Subsection (6), the claimant, estate, or trust that is a business entity may:

(i) assign its right to this tax credit to the claimant, estate, or trust that is not a business entity; and

(ii) if the claimant, estate, or trust that is a business entity assigns its right to the tax credit to a claimant, estate, or trust that is not a business entity under Subsection (6)(c)(i), the claimant, estate, or trust that is not a business entity may claim the tax credit as if that claimant, estate, or trust that is not a business entity had completed or participated in the costs of the residential energy system under this section.

~~[(7) (a) A claimant, estate, or trust that is a business entity that purchases or participates in the financing of a commercial energy system is entitled to a nonrefundable tax~~

credit as provided in this Subsection (7) if:]

~~[(i) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the claimant, estate, or trust that is a business entity, or]~~

~~[(ii) the claimant, estate, or trust that is a business entity sells all or part of the energy produced by the commercial energy system as a commercial enterprise.]~~

~~[(b) (i) A claimant, estate, or trust that is a business entity is entitled to a tax credit equal to 10% of the costs of any commercial energy system installed, including installation costs, against any tax due under this chapter for the taxable year in which the commercial energy system is completed and placed in service.]~~

~~[(ii) The total amount of the tax credit under this Subsection (7) may not exceed \$50,000 per commercial unit.]~~

~~[(iii) The tax credit under this Subsection (7) is allowed for any commercial energy system completed and placed in service on or after January 1, 2001, but on or before December 31, 2006.]~~

~~[(c) A claimant, estate, or trust that is a business entity that leases a commercial energy system installed on a commercial unit is eligible for the tax credit under this Subsection (7) if the claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax credit.]~~

~~[(d) Only the principal recovery portion of the lease payments, which is the cost incurred by a claimant, estate, or trust that is not a business entity in acquiring a commercial energy system, excluding interest charges and maintenance expenses, is eligible for the tax credit under this Subsection (7).]~~

~~[(e) A claimant, estate, or trust that is a business entity that leases a commercial energy system is eligible to use the tax credit under this Subsection (7) for a period that does not exceed seven years from the initiation of the lease.]~~

~~[(8)]~~ (7) (a) A tax credit under this section may be claimed for the taxable year in which the residential energy system is completed and placed in service.

(b) Additional residential energy systems or parts of residential energy systems may be claimed for subsequent years.

(c) If the amount of a tax credit under this section exceeds the tax liability of the claimant, estate, or trust claiming the tax credit under this section for a taxable year, the amount of the tax credit exceeding the tax liability may be carried over for a period which does not exceed the next four taxable years.

~~[(9)]~~ (8) The tax credits provided for under this section are in addition to any tax credits provided under the laws or rules and regulations of the United States.

~~[(10)]~~ (9) (a) The Utah Geological Survey may set standards for residential ~~[and commercial]~~ energy systems that cover the safety, reliability, efficiency, leasing, and technical feasibility of the systems to ensure that the systems eligible for the tax credit use the state's renewable and nonrenewable energy resources in an appropriate and economic manner.

(b) The Utah Geological Survey may set standards for residential and commercial energy systems that establish the reasonable costs of an energy system, as used in Subsections (3)(a) and (6)(b)(i), as an amount per unit of energy production.

~~[(b)]~~ (c) A tax credit may not be taken under this section until the Utah Geological Survey has certified that the energy system has been completely installed and is a viable system for saving or production of energy from renewable resources.

~~[(11)]~~ (10) The Utah Geological Survey and the commission ~~[are authorized to promulgate]~~ may make rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, ~~[which]~~ that are necessary to implement this section.

~~[(12) The Uniform School Fund shall be reimbursed by transfers from the General Fund for any tax credits taken under this section.]~~

(11) (a) On or before October 1, 2012, and every five years thereafter, the Utah Tax Review Commission shall review each tax credit provided by this section and make recommendations to the Revenue and Taxation Interim Committee concerning whether the credit should be continued, modified, or repealed.

(b) The Utah Tax Review Commission's report under Subsection (11)(a) shall include information concerning the cost of the credit, the purpose and effectiveness of the credit, and the state's benefit from the credit.

Section 9. Section **59-10-1106** is enacted to read:

59-10-1106. Renewable energy tax credit.

(1) As used in this section:

(a) "Active solar system" is as defined in Section 59-10-1014.

(b) "Biomass system" is as defined in Section 59-10-1014.

(c) "Business entity" is as defined in Section 59-10-1014.

(d) "Commercial energy system" means any active solar, passive solar, geothermal electricity, direct-use geothermal, geothermal heat-pump system, wind, hydroenergy, or biomass system used to supply energy to a commercial unit or as a commercial enterprise.

(e) "Commercial enterprise" means a business entity whose purpose is to produce electrical, mechanical, or thermal energy for sale from a commercial energy system.

(f) (i) "Commercial unit" means any building or structure that a business entity uses to transact its business.

(ii) Notwithstanding Subsection (1)(f)(i):

(A) in the case of an active solar system used for agricultural water pumping or a wind system, each individual energy generating device shall be a commercial unit; and

(B) if an energy system is the building or structure that a business entity uses to transact its business, a commercial unit is the complete energy system itself.

(g) "Direct-use geothermal system" is as defined in Section 59-10-1014.

(h) "Geothermal electricity" is as defined in Section 59-10-1014.

(i) "Geothermal heat-pump system" is as defined in Section 59-10-1014.

(j) "Hydroenergy system" is as defined in Section 59-10-1014.

(k) "Individual taxpayer" means any person who is a taxpayer as defined in Section 59-10-103 and an individual as defined in Section 59-10-103.

(l) "Passive solar system" is as defined in Section 59-10-1014.

(m) "Utah Geological Survey" means the Utah Geological Survey established in Section 63-73-5.

(n) "Wind system" is as defined in Section 59-10-1014.

(2) (a) (i) For taxable years beginning on or after January 1, 2007, a business entity that purchases or participates in the financing of a commercial energy system situated in Utah is entitled to a refundable tax credit as provided in this Subsection (2)(a) if the commercial energy system does not use wind, geothermal electricity, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity and:

(A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the business entity; or

(B) the business entity sells all or part of the energy produced by the commercial energy system as a commercial enterprise.

(ii) (A) A business entity is entitled to a tax credit of up to 10% of the reasonable costs of any commercial energy system installed, including installation costs, against any tax due under this chapter for the taxable year in which the commercial energy system is completed and placed in service.

(B) Notwithstanding Subsection (2)(a)(ii)(A), the total amount of the credit under this Subsection (2)(a) may not exceed \$50,000 per commercial unit.

(C) The credit under this Subsection (2)(a) is allowed for any commercial energy system completed and placed in service on or after January 1, 2007.

(iii) A business entity that leases a commercial energy system installed on a commercial unit is eligible for the tax credit under this Subsection (2)(a) if the lessee can confirm that the lessor irrevocably elects not to claim the credit.

(iv) Only the principal recovery portion of the lease payments, which is the cost incurred by a business entity in acquiring a commercial energy system, excluding interest charges and maintenance expenses, is eligible for the tax credit under this Subsection (2)(a).

(v) A business entity that leases a commercial energy system is eligible to use the tax credit under this Subsection (2)(a) for a period no greater than seven years from the initiation of the lease.

(b) (i) For taxable years beginning on or after January 1, 2007, a business entity that owns a commercial energy system situated in Utah using wind, geothermal electricity, or

1010 biomass equipment capable of producing a total of 660 or more kilowatts of electricity is
1011 entitled to a refundable tax credit as provided in this section if:

1012 (A) the commercial energy system supplies all or part of the energy required by
1013 commercial units owned or used by the business entity; or

1014 (B) the business entity sells all or part of the energy produced by the commercial energy
1015 system as a commercial enterprise.

1016 (ii) A business entity is entitled to a tax credit under this Subsection (2)(b) equal to the
1017 product of:

1018 (A) 0.35 cents; and

1019 (B) the kilowatt hours of electricity produced and either used or sold during the taxable
1020 year.

1021 (iii) The credit allowed by this Subsection (2)(b):

1022 (A) may be claimed for production occurring during a period of 48 months beginning
1023 with the month in which the commercial energy system is placed in service; and

1024 (B) may not be carried forward or back.

1025 (iv) A business entity that leases a commercial energy system installed on a commercial
1026 unit is eligible for the tax credit under this section if the lessee can confirm that the lessor
1027 irrevocably elects not to claim the credit.

1028 (3) The tax credits provided for under this section are in addition to any tax credits
1029 provided under the laws or rules and regulations of the United States.

1030 (4) (a) The Utah Geological Survey may set standards for commercial energy systems
1031 claiming a tax credit under Subsection (2)(a) that cover the safety, reliability, efficiency, leasing,
1032 and technical feasibility of the systems to ensure that the systems eligible for the tax credit use
1033 the state's renewable and nonrenewable energy resources in an appropriate and economic
1034 manner.

1035 (b) A tax credit may not be taken under this section until the Utah Geological Survey
1036 has certified that the commercial energy system has been completely installed and is a viable
1037 system for saving or production of energy from renewable resources.

(5) The Utah Geological Survey and the commission may make rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, that are necessary to implement this section.

(6) (a) On or before October 1, 2012, and every five years thereafter, the Utah Tax Review Commission shall review each tax credit provided by this section and make recommendations to the Revenue and Taxation Interim Committee concerning whether the credit should be continued, modified, or repealed.

(b) The Utah Tax Review Commission's report under Subsection (6)(a) shall include information concerning the cost of the credit, the purpose and effectiveness of the credit, and the state's benefit from the credit.

Section 10. Section **59-10-1202** is amended to read:

59-10-1202. Definitions.

As used in this part:

(1) "Military service" is as defined in Pub. L. No. 108-189, Sec. 101.

(2) "Servicemember" is as defined in Pub. L. No. 108-189, Sec. 101.

(3) "State income tax percentage for a nonresident individual" means a percentage equal to a nonresident individual's adjusted gross income for the taxable year received from Utah sources, as determined under Section 59-10-117, divided by the difference between:

(a) the nonresident individual's total adjusted gross income for that taxable year; and

(b) if the nonresident individual described in Subsection (3)(a) is a servicemember, the compensation the servicemember receives for military service if the servicemember is serving in compliance with military orders.

(4) "State income tax percentage for a part-year resident individual" means, for a taxable year, a fraction:

(a) the numerator of which is the sum of:

(i) for the time period during the taxable year that the part-year resident individual is a resident, the part-year resident individual's total adjusted gross income for that time period; and

(ii) for the time period during the taxable year that the part-year resident individual is a

1066 nonresident, the part-year resident individual's adjusted gross income for that time period
1067 received from Utah sources, as determined under Section 59-10-117; and
1068 (b) the denominator of which is the difference between:
1069 (i) the part-year resident individual's total adjusted gross income for that taxable year;
1070 and
1071 (ii) if the part-year resident individual is a servicemember, any compensation the
1072 servicemember receives for military service during the portion of the taxable year that the
1073 servicemember is a nonresident if the servicemember is serving in compliance with military
1074 orders.
1075 ~~[(4)]~~ (5) "State taxable income" means a resident or nonresident individual's adjusted
1076 gross income after making the:
1077 (a) additions and subtractions required by Section 59-10-1204; and
1078 (b) adjustments required by Section 59-10-1205.
1079 ~~[(5)]~~ (6) "Unapportioned state tax" means the product of the:
1080 (a) difference between:
1081 (i) a nonresident individual's state taxable income; and
1082 (ii) if the nonresident individual described in Subsection ~~[(5)]~~ (6)(a)(i) is a
1083 servicemember, compensation the servicemember receives for military service if the
1084 servicemember is serving in compliance with military orders; and
1085 (b) percentage listed in Subsection 59-10-1203(2)(a)(i)(B).
1086 Section 11. Section **59-10-1203** is amended to read:
1087 **59-10-1203. Single rate tax for resident or nonresident individual -- Tax rate --**
1088 **Contributions -- Exemption -- Amended returns.**
1089 (1) ~~[For taxable years beginning on or after January 1, 2007, a]~~ A resident or
1090 nonresident individual may calculate and pay a tax under this section as provided in this part.
1091 (2) (a) A resident individual that calculates and pays a tax under this section:
1092 (i) shall pay for a taxable year an amount equal to the product of:
1093 (A) the resident individual's state taxable income for that taxable year; and

- 1094 (B) [~~5.35%~~] 5%; and
- 1095 (ii) is exempt from paying the tax imposed by Section 59-10-104.
- 1096 (b) A nonresident individual that calculates and pays a tax under this section:
- 1097 (i) shall pay for a taxable year an amount equal to the product of the nonresident
- 1098 individual's:
- 1099 (A) unapportioned state tax; and
- 1100 (B) state income tax percentage for the nonresident individual; and
- 1101 (ii) is exempt from paying the tax imposed by Section 59-10-116.
- 1102 (3) Except as required by Section 59-10-1204 or 59-10-1205, a resident or nonresident
- 1103 individual that calculates and pays a tax under this section may not make any addition or
- 1104 adjustment to or subtraction from adjusted gross income.
- 1105 (4) A resident or nonresident individual that calculates and pays a tax under this section
- 1106 may designate on the resident or nonresident individual's individual income tax return for a
- 1107 taxable year a contribution allowed by:
- 1108 (a) Section 59-10-530;
- 1109 (b) Section 59-10-530.5;
- 1110 (c) Section 59-10-547;
- 1111 (d) Section 59-10-549;
- 1112 (e) Section 59-10-550;
- 1113 (f) Section 59-10-550.1; or
- 1114 (g) Section 59-10-550.2.
- 1115 (5) This section does not apply to a resident or nonresident individual exempt from
- 1116 taxation under Section 59-10-104.1.
- 1117 (6) (a) A resident or nonresident individual may determine for each taxable year for
- 1118 which the resident or nonresident individual files an individual income tax return under this
- 1119 chapter whether to calculate and pay a tax under this section as provided in this part.
- 1120 (b) If a resident or nonresident individual files an amended return for a taxable year
- 1121 beginning on or after January 1, 2007, the resident or nonresident individual may determine

1122 whether to calculate and pay a tax under this section as provided in this part for that taxable
1123 year.

1124 Section 12. Section **59-10-1206.1** is enacted to read:

1125 **59-10-1206.1. Definitions -- Nonrefundable taxpayer tax credits.**

1126 (1) As used in this section:

1127 (a) "Claimant" means a resident or nonresident individual that has state taxable income
1128 under this part.

1129 (b) "Head of household filing status" means a head of household, as defined in Section
1130 2(b), Internal Revenue Code, who files a single return.

1131 (c) "Joint filing status" means:

1132 (i) a husband and wife who file a single return jointly; or

1133 (ii) a surviving spouse, as defined in Section 2(a), Internal Revenue Code, who files a
1134 single return.

1135 (d) "Single filing status" means:

1136 (i) a single individual who files a single return; or

1137 (ii) a married individual who:

1138 (A) does not file a single return jointly with that individual's spouse; and

1139 (B) files a single return.

1140 (2) Except as provided in Section 59-10-1206.9 and subject to Subsections (3) through
1141 (5), for taxable years beginning on or after January 1, 2008, a claimant may claim a
1142 nonrefundable tax credit against taxes otherwise due under this part equal to the sum of:

1143 (a) (i) for a claimant that deducts the standard deduction on the claimant's federal
1144 individual income tax return for the taxable year, 6% of the amount the claimant deducts as
1145 allowed as the standard deduction on the claimant's federal individual income tax return for that
1146 taxable year; or

1147 (ii) for a claimant that itemizes deductions on the claimant's federal individual income
1148 tax return for the taxable year, the product of:

1149 (A) the difference between:

1150 (I) the amount the claimant deducts as allowed as an itemized deduction on the
1151 claimant's federal individual income tax return for that taxable year; and

1152 (II) any amount of state or local income taxes the claimant deducts as allowed as an
1153 itemized deduction on the claimant's federal individual income tax return for that taxable year;
1154 and

1155 (B) 6%; and

1156 (b) 6% of the total amount the claimant would have been allowed to claim as a personal
1157 exemption deduction on the claimant's state individual income tax return had the claimant filed
1158 an individual income tax return under Part 1, Determination and Reporting of Tax Liability and
1159 Information, for the taxable year.

1160 (3) A claimant may not carry forward or carry back a tax credit under this section.

1161 (4) The tax credit allowed by Subsection (2) shall be reduced by \$.013 for each dollar
1162 by which a claimant's state taxable income exceeds:

1163 (a) for a claimant who has a single filing status, \$12,000;
1164 (b) for a claimant who has a head of household filing status, \$18,000; or
1165 (c) for a claimant who has a joint filing status, \$24,000.

1166 (5) (a) For taxable years beginning on or after January 1, 2009, the commission shall
1167 increase or decrease the following dollar amounts by a percentage equal to the percentage
1168 difference between the consumer price index for the preceding calendar year and the consumer
1169 price index for calendar year 2007:

1170 (i) the dollar amount listed in Subsection (4)(a); and
1171 (ii) the dollar amount listed in Subsection (4)(b).

1172 (b) After the commission increases or decreases the dollar amounts listed in Subsection
1173 (5)(a), the commission shall round those dollar amounts listed in Subsection (5)(a) to the
1174 nearest whole dollar.

1175 (c) After the commission rounds the dollar amounts as required by Subsection (5)(b),
1176 the commission shall increase or decrease the dollar amount listed in Subsection (4)(c) so that
1177 the dollar amount listed in Subsection (4)(c) is equal to the product of:

- 1178 (i) the dollar amount listed in Subsection (4)(a); and
1179 (ii) two.
1180 (d) For purposes of Subsection (5)(a), the commission shall calculate the consumer
1181 price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.
1182 Section 13. Section **59-10-1206.2** is enacted to read:
1183 **59-10-1206.2. Definitions -- Nonrefundable retirement tax credits.**
1184 (1) As used in this section:
1185 (a) "Eligible age 65 or older retiree" means a resident or nonresident individual,
1186 regardless of whether that individual is retired, who:
1187 (i) is 65 years of age or older;
1188 (ii) was born on or before December 31, 1952; and
1189 (iii) has state taxable income under this part.
1190 (b) (i) "Eligible retirement income" means income received by an eligible under age 65
1191 retiree as a pension or annuity if that pension or annuity is:
1192 (A) paid to the eligible under age 65 retiree or the surviving spouse of an eligible under
1193 age 65 retiree; and
1194 (B) (I) paid from an annuity contract purchased by an employer under a plan that meets
1195 the requirements of Section 404(a)(2), Internal Revenue Code;
1196 (II) purchased by an employee under a plan that meets the requirements of Section 408,
1197 Internal Revenue Code; or
1198 (III) paid by:
1199 (Aa) the United States;
1200 (Bb) a state or a political subdivision of a state; or
1201 (Cc) the District of Columbia.
1202 (ii) "Eligible retirement income" does not include amounts received by the spouse of a
1203 living eligible under age 65 retiree because of the eligible under age 65 retiree's having been
1204 employed in a community property state.
1205 (c) "Eligible under age 65 retiree" means a resident or nonresident individual, regardless

1206 of whether that individual is retired, who:
1207 (i) is younger than 65 years of age;
1208 (ii) was born on or before December 31, 1952;
1209 (iii) has eligible retirement income for the taxable year for which a tax credit is claimed
1210 under this section; and
1211 (iv) has state taxable income under this part.
1212 (d) "Head of household filing status" is as defined in Section 59-10-1206.1.
1213 (e) "Joint filing status" is as defined in Section 59-10-1206.1.
1214 (f) "Married filing separately status" means a married individual who:
1215 (i) does not file a single return jointly with that individual's spouse; and
1216 (ii) files a single return.
1217 (g) "Modified adjusted gross income" means the sum of an eligible age 65 or older
1218 retiree's or eligible under age 65 retiree's:
1219 (i) adjusted gross income for the taxable year for which a tax credit is claimed under
1220 this section; and
1221 (ii) any interest income that is not included in adjusted gross income for the taxable year
1222 described in Subsection (1)(g)(i).
1223 (h) "Single filing status" means a single individual who files a single return.
1224 (2) Except as provided in Section 59-10-1206.9 and subject to Subsections (3) through
1225 (6), for taxable years beginning on or after January 1, 2008:
1226 (a) each eligible age 65 or older retiree may claim a nonrefundable tax credit of \$450
1227 against taxes otherwise due under this part; or
1228 (b) each eligible under age 65 retiree may claim a nonrefundable tax credit against taxes
1229 otherwise due under this part in an amount equal to the lesser of:
1230 (i) \$288; or
1231 (ii) the product of:
1232 (A) the eligible under age 65 retiree's eligible retirement income for the taxable year for
1233 which the eligible under age 65 retiree claims a tax credit under this section; and

- 1234 (B) 6%.
- 1235 (3) A tax credit under this section may not be carried forward or carried back.
- 1236 (4) The sum of the tax credits allowed by Subsection (2)(a) claimed on one return filed
1237 under this part shall be reduced by \$.025 for each dollar by which an eligible age 65 or older
1238 retiree's modified adjusted gross income exceeds:
- 1239 (a) for an eligible age 65 or older retiree who has a married filing separately status,
1240 \$16,000;
- 1241 (b) for an eligible age 65 or older retiree who has a single filing status, \$25,000; or
1242 (c) for an eligible age 65 or older retiree who has a head of household filing status or a
1243 joint filing status, \$32,000.
- 1244 (5) The sum of the tax credits allowed by Subsection (2)(b) claimed on one return filed
1245 under this part shall be reduced by \$.025 for each dollar by which an eligible under age 65
1246 retiree's modified adjusted gross income exceeds:
- 1247 (a) for an eligible under age 65 retiree who has a married filing separately status,
1248 \$16,000;
- 1249 (b) for an eligible under age 65 retiree who has a single filing status, \$25,000; or
1250 (c) for an eligible under age 65 retiree who has a head of household filing status or a
1251 joint filing status, \$32,000.
- 1252 (6) For purposes of determining the ownership of items of retirement income under this
1253 section, common law doctrine shall be applied in all cases even though some items of retirement
1254 income may have originated from service or investments in a community property state.
- 1255 Section 14. Section **59-10-1206.9** is enacted to read:
- 1256 **59-10-1206.9. Apportionment of tax credits.**
- 1257 A nonresident individual or a part-year resident individual that claims a tax credit in
1258 accordance with Section 59-10-1206.1 or 59-10-1206.2 may only claim an apportioned amount
1259 of the tax credit equal to:
- 1260 (1) for a nonresident individual, the product of:
- 1261 (a) the state income tax percentage for the nonresident individual; and

1262 (b) the amount of the tax credit that the nonresident individual would have been
1263 allowed to claim but for the apportionment requirements of this section; or
1264 (2) for a part-year resident individual, the product of:
1265 (a) the state income tax percentage for the part-year resident individual; and
1266 (b) the amount of the tax credit that the part-year resident individual would have been
1267 allowed to claim but for the apportionment requirements of this section.

1268 Section 15. Section **59-12-102** is amended to read:

1269 **59-12-102. Definitions.**

1270 As used in this chapter:

1271 (1) (a) "Admission or user fees" includes season passes.

1272 (b) "Admission or user fees" does not include annual membership dues to private
1273 organizations.

1274 (2) "Agreement" means the Streamlined Sales and Use Tax Agreement described in
1275 Section 59-12-102.1.

1276 (3) "Agreement combined tax rate" means the sum of the tax rates:

1277 (a) listed under Subsection (4); and

1278 (b) that are imposed within a local taxing jurisdiction.

1279 (4) "Agreement sales and use tax" means a tax imposed under:

1280 (a) Subsection 59-12-103(2)(a)(i) or (2)(b)(iii)(A);

1281 (b) Section 59-12-204;

1282 (c) Section 59-12-401;

1283 (d) Section 59-12-402;

1284 (e) Section 59-12-501;

1285 (f) Section 59-12-502;

1286 (g) Section 59-12-703;

1287 (h) Section 59-12-802;

1288 (i) Section 59-12-804;

1289 (j) Section 59-12-1001;

- 1290 (k) Section 59-12-1102;
- 1291 (l) Section 59-12-1302;
- 1292 (m) Section 59-12-1402; [~~or~~]
- 1293 (n) Section 59-12-1503[~~;~~]; or
- 1294 (o) Section 59-12-1703.
- 1295 (5) "Aircraft" is as defined in Section 72-10-102.
- 1296 (6) "Alcoholic beverage" means a beverage that:
- 1297 (a) is suitable for human consumption; and
- 1298 (b) contains .5% or more alcohol by volume.
- 1299 (7) "Area agency on aging" is as defined in Section 62A-3-101.
- 1300 (8) "Assisted amusement device" means an amusement device, skill device, or ride
- 1301 device that is started and stopped by an individual:
- 1302 (a) who is not the purchaser or renter of the right to use or operate the amusement
- 1303 device, skill device, or ride device; and
- 1304 (b) at the direction of the seller of the right to use the amusement device, skill device, or
- 1305 ride device.
- 1306 (9) "Assisted cleaning or washing of tangible personal property" means cleaning or
- 1307 washing of tangible personal property if the cleaning or washing labor is primarily performed by
- 1308 an individual:
- 1309 (a) who is not the purchaser of the cleaning or washing of the tangible personal
- 1310 property; and
- 1311 (b) at the direction of the seller of the cleaning or washing of the tangible personal
- 1312 property.
- 1313 (10) "Authorized carrier" means:
- 1314 (a) in the case of vehicles operated over public highways, the holder of credentials
- 1315 indicating that the vehicle is or will be operated pursuant to both the International Registration
- 1316 Plan and the International Fuel Tax Agreement;
- 1317 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating

1318 certificate or air carrier's operating certificate; or

1319 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling
1320 stock, the holder of a certificate issued by the United States Surface Transportation Board.

1321 (11) (a) Except as provided in Subsection (11)(b), "biomass energy" means any of the
1322 following that is used as the primary source of energy to produce fuel or electricity:

1323 (i) material from a plant or tree; or

1324 (ii) other organic matter that is available on a renewable basis, including:

1325 (A) slash and brush from forests and woodlands;

1326 (B) animal waste;

1327 (C) methane produced:

1328 (I) at landfills; or

1329 (II) as a byproduct of the treatment of wastewater residuals;

1330 (D) aquatic plants; and

1331 (E) agricultural products.

1332 (b) "Biomass energy" does not include:

1333 (i) black liquor;

1334 (ii) treated woods; or

1335 (iii) biomass from municipal solid waste other than methane produced:

1336 (A) at landfills; or

1337 (B) as a byproduct of the treatment of wastewater residuals.

1338 (12) (a) "Bundled transaction" means the sale of two or more items of tangible personal
1339 property if:

1340 (i) one or more of the items of tangible personal property is food and food ingredients;

1341 and

1342 (ii) the items of tangible personal property are:

1343 (A) distinct and identifiable; and

1344 (B) sold for one price that is not itemized.

1345 (b) "Bundled transaction" does not include the sale of tangible personal property if the

1346 sales price varies, or is negotiable, on the basis of the selection by the purchaser of the items of
1347 tangible personal property included in the transaction.

1348 (c) For purposes of Subsection (12)(a)(ii)(A), tangible personal property that is distinct
1349 and identifiable does not include:

1350 (i) packaging that:

1351 (A) accompanies the sale of the tangible personal property; and

1352 (B) is incidental or immaterial to the sale of the tangible personal property;

1353 (ii) tangible personal property provided free of charge with the purchase of another item
1354 of tangible personal property; or

1355 (iii) an item of tangible personal property included in the definition of "purchase price."

1356 (d) For purposes of Subsection (12)(c)(ii), an item of tangible personal property is
1357 provided free of charge with the purchase of another item of tangible personal property if the
1358 sales price of the purchased item of tangible personal property does not vary depending on the
1359 inclusion of the tangible personal property provided free of charge.

1360 (13) "Certified automated system" means software certified by the governing board of
1361 the agreement in accordance with Section 59-12-102.1 that:

1362 (a) calculates the agreement sales and use tax imposed within a local taxing jurisdiction:

1363 (i) on a transaction; and

1364 (ii) in the states that are members of the agreement;

1365 (b) determines the amount of agreement sales and use tax to remit to a state that is a
1366 member of the agreement; and

1367 (c) maintains a record of the transaction described in Subsection (13)(a)(i).

1368 (14) "Certified service provider" means an agent certified:

1369 (a) by the governing board of the agreement in accordance with Section 59-12-102.1;

1370 and

1371 (b) to perform all of a seller's sales and use tax functions for an agreement sales and use
1372 tax other than the seller's obligation under Section 59-12-107.4 to remit a tax on the seller's
1373 own purchases.

1374 (15) (a) Subject to Subsection (15)(b), "clothing" means all human wearing apparel
1375 suitable for general use.

1376 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1377 commission shall make rules:

1378 (i) listing the items that constitute "clothing"; and

1379 (ii) that are consistent with the list of items that constitute "clothing" under the
1380 agreement.

1381 (16) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

1382 (17) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other
1383 fuels that does not constitute industrial use under Subsection [~~(39)~~] (40) or residential use under
1384 Subsection [~~(76)~~] (77).

1385 (18) (a) "Common carrier" means a person engaged in or transacting the business of
1386 transporting passengers, freight, merchandise, or other property for hire within this state.

1387 (b) (i) "Common carrier" does not include a person who, at the time the person is
1388 traveling to or from that person's place of employment, transports a passenger to or from the
1389 passenger's place of employment.

1390 (ii) For purposes of Subsection (18)(b)(i), in accordance with Title 63, Chapter 46a,
1391 Utah Administrative Rulemaking Act, the commission may make rules defining what constitutes
1392 a person's place of employment.

1393 (19) "Component part" includes:

1394 (a) poultry, dairy, and other livestock feed, and their components;

1395 (b) baling ties and twine used in the baling of hay and straw;

1396 (c) fuel used for providing temperature control of orchards and commercial
1397 greenhouses doing a majority of their business in wholesale sales, and for providing power for
1398 off-highway type farm machinery; and

1399 (d) feed, seeds, and seedlings.

1400 (20) "Computer" means an electronic device that accepts information:

1401 (a) (i) in digital form; or

- 1402 (ii) in a form similar to digital form; and
- 1403 (b) manipulates that information for a result based on a sequence of instructions.
- 1404 (21) "Computer software" means a set of coded instructions designed to cause:
- 1405 (a) a computer to perform a task; or
- 1406 (b) automatic data processing equipment to perform a task.
- 1407 (22) "Construction materials" means any tangible personal property that will be
- 1408 converted into real property.
- 1409 (23) "Delivered electronically" means delivered to a purchaser by means other than
- 1410 tangible storage media.
- 1411 (24) (a) "Delivery charge" means a charge:
- 1412 (i) by a seller of:
- 1413 (A) tangible personal property; or
- 1414 (B) services; and
- 1415 (ii) for preparation and delivery of the tangible personal property or services described
- 1416 in Subsection (24)(a)(i) to a location designated by the purchaser.
- 1417 (b) "Delivery charge" includes a charge for the following:
- 1418 (i) transportation;
- 1419 (ii) shipping;
- 1420 (iii) postage;
- 1421 (iv) handling;
- 1422 (v) crating; or
- 1423 (vi) packing.
- 1424 (25) (a) "Dental prosthesis" means the following if fabricated in a laboratory:
- 1425 (i) a bridge;
- 1426 (ii) a crown if that crown covers at least 75% of a tooth structure;
- 1427 (iii) a denture;
- 1428 (iv) an implant;
- 1429 (v) an orthodontic device designed to:

- 1430 (A) retain the position or spacing of teeth; and
1431 (B) replace a missing tooth;
1432 (vi) a partial denture; or
1433 (vii) a device similar to Subsections (25)(a)(i) through (vi).
1434 (b) "Dental prosthesis" does not include an appliance or device, other than a device
1435 described in Subsection (25)(a), if that appliance or device is used in orthodontic therapy to
1436 apply force to the teeth and their supporting structures to:
1437 (i) produce changes in their relationship to each other; and
1438 (ii) control their growth and development.
1439 [~~(25)~~] (26) "Dietary supplement" means a product, other than tobacco, that:
1440 (a) is intended to supplement the diet;
1441 (b) contains one or more of the following dietary ingredients:
1442 (i) a vitamin;
1443 (ii) a mineral;
1444 (iii) an herb or other botanical;
1445 (iv) an amino acid;
1446 (v) a dietary substance for use by humans to supplement the diet by increasing the total
1447 dietary intake; or
1448 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
1449 described in Subsections [~~(25)~~] (26)(b)(i) through (v);
1450 (c) (i) except as provided in Subsection [~~(25)~~] (26)(c)(ii), is intended for ingestion in:
1451 (A) tablet form;
1452 (B) capsule form;
1453 (C) powder form;
1454 (D) softgel form;
1455 (E) gelcap form; or
1456 (F) liquid form; or
1457 (ii) notwithstanding Subsection [~~(25)~~] (26)(c)(i), if the product is not intended for

1458 ingestion in a form described in Subsections [~~(25)~~] (26)(c)(i)(A) through (F), is not represented:

1459 (A) as conventional food; and

1460 (B) for use as a sole item of:

1461 (I) a meal; or

1462 (II) the diet; and

1463 (d) is required to be labeled as a dietary supplement:

1464 (i) identifiable by the "Supplemental Facts" box found on the label; and

1465 (ii) as required by 21 C.F.R. Sec. 101.36.

1466 [~~(26)~~] (27) (a) "Direct mail" means printed material delivered or distributed by United

1467 States mail or other delivery service:

1468 (i) to:

1469 (A) a mass audience; or

1470 (B) addressees on a mailing list provided by a purchaser of the mailing list; and

1471 (ii) if the cost of the printed material is not billed directly to the recipients.

1472 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a

1473 purchaser to a seller of direct mail for inclusion in a package containing the printed material.

1474 (c) "Direct mail" does not include multiple items of printed material delivered to a single

1475 address.

1476 [~~(27)~~] (28) (a) "Drug" means a compound, substance, or preparation, or a component

1477 of a compound, substance, or preparation that is:

1478 (i) recognized in:

1479 (A) the official United States Pharmacopoeia;

1480 (B) the official Homeopathic Pharmacopoeia of the United States;

1481 (C) the official National Formulary; or

1482 (D) a supplement to a publication listed in Subsections [~~(27)~~] (28)(a)(i)(A) through (C);

1483 (ii) intended for use in the:

1484 (A) diagnosis of disease;

1485 (B) cure of disease;

- 1486 (C) mitigation of disease;
1487 (D) treatment of disease; or
1488 (E) prevention of disease; or
1489 (iii) intended to affect:
1490 (A) the structure of the body; or
1491 (B) any function of the body.
1492 (b) "Drug" does not include:
1493 (i) food and food ingredients;
1494 (ii) a dietary supplement;
1495 (iii) an alcoholic beverage; or
1496 (iv) a prosthetic device.
1497 ~~[(28)]~~ (29) (a) Except as provided in Subsection ~~[(28)]~~ (29)(c), "durable medical
1498 equipment" means equipment that:
1499 (i) can withstand repeated use;
1500 (ii) is primarily and customarily used to serve a medical purpose;
1501 (iii) generally is not useful to a person in the absence of illness or injury; and
1502 (iv) is not worn in or on the body.
1503 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
1504 equipment described in Subsection ~~[(28)]~~ (29)(a).
1505 (c) Notwithstanding Subsection ~~[(28)]~~ (29)(a), "durable medical equipment" does not
1506 include mobility enhancing equipment.
1507 ~~[(29)]~~ (30) "Electronic" means:
1508 (a) relating to technology; and
1509 (b) having:
1510 (i) electrical capabilities;
1511 (ii) digital capabilities;
1512 (iii) magnetic capabilities;
1513 (iv) wireless capabilities;

- 1514 (v) optical capabilities;
- 1515 (vi) electromagnetic capabilities; or
- 1516 (vii) capabilities similar to Subsections [~~(29)~~] (30)(b)(i) through (vi).
- 1517 [~~(30)~~] (31) "Employee" is as defined in Section 59-10-401.
- 1518 [~~(31)~~] (32) "Fixed guideway" means a public transit facility that uses and occupies:
- 1519 (a) rail for the use of public transit; or
- 1520 (b) a separate right-of-way for the use of public transit.
- 1521 [~~(32)~~] (33) (a) "Food and food ingredients" means substances:
- 1522 (i) regardless of whether the substances are in:
- 1523 (A) liquid form;
- 1524 (B) concentrated form;
- 1525 (C) solid form;
- 1526 (D) frozen form;
- 1527 (E) dried form; or
- 1528 (F) dehydrated form; and
- 1529 (ii) that are:
- 1530 (A) sold for:
- 1531 (I) ingestion by humans; or
- 1532 (II) chewing by humans; and
- 1533 (B) consumed for the substance's:
- 1534 (I) taste; or
- 1535 (II) nutritional value.
- 1536 (b) "Food and food ingredients" includes an item described in Subsection [~~(63)~~]
- 1537 (64)(b)(iii).
- 1538 (c) "Food and food ingredients" does not include:
- 1539 (i) an alcoholic beverage;
- 1540 (ii) tobacco; or
- 1541 (iii) prepared food.

- 1542 [~~(33)~~] (34) (a) "Fundraising sales" means sales:
- 1543 (i) (A) made by a school; or
- 1544 (B) made by a school student;
- 1545 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 1546 materials, or provide transportation; and
- 1547 (iii) that are part of an officially sanctioned school activity.
- 1548 (b) For purposes of Subsection [~~(33)~~] (34)(a)(iii), "officially sanctioned school activity"
- 1549 means a school activity:
- 1550 (i) that is conducted in accordance with a formal policy adopted by the school or school
- 1551 district governing the authorization and supervision of fundraising activities;
- 1552 (ii) that does not directly or indirectly compensate an individual teacher or other
- 1553 educational personnel by direct payment, commissions, or payment in kind; and
- 1554 (iii) the net or gross revenues from which are deposited in a dedicated account
- 1555 controlled by the school or school district.
- 1556 [~~(34)~~] (35) "Geothermal energy" means energy contained in heat that continuously
- 1557 flows outward from the earth that is used as the sole source of energy to produce electricity.
- 1558 [~~(35)~~] (36) "Governing board of the agreement" means the governing board of the
- 1559 agreement that is:
- 1560 (a) authorized to administer the agreement; and
- 1561 (b) established in accordance with the agreement.
- 1562 [~~(36)~~] (37) (a) "Hearing aid" means:
- 1563 (i) an instrument or device having an electronic component that is designed to:
- 1564 (A) (I) improve impaired human hearing; or
- 1565 (II) correct impaired human hearing; and
- 1566 (B) (I) be worn in the human ear; or
- 1567 (II) affixed behind the human ear;
- 1568 (ii) an instrument or device that is surgically implanted into the cochlea; or
- 1569 (iii) a telephone amplifying device.

- 1570 (b) "Hearing aid" does not include:
- 1571 (i) except as provided in Subsection [~~(36)~~] (37)(a)(i)(B) or [~~(36)~~] (37)(a)(ii), an
- 1572 instrument or device having an electronic component that is designed to be worn on the body;
- 1573 (ii) except as provided in Subsection [~~(36)~~] (37)(a)(iii), an assistive listening device or
- 1574 system designed to be used by one individual, including:
- 1575 (A) a personal amplifying system;
- 1576 (B) a personal FM system;
- 1577 (C) a television listening system; or
- 1578 (D) a device or system similar to a device or system described in Subsections [~~(36)~~]
- 1579 (37)(b)(ii)(A) through (C); or
- 1580 (iii) an assistive listening device or system designed to be used by more than one
- 1581 individual, including:
- 1582 (A) a device or system installed in:
- 1583 (I) an auditorium;
- 1584 (II) a church;
- 1585 (III) a conference room;
- 1586 (IV) a synagogue; or
- 1587 (V) a theater; or
- 1588 (B) a device or system similar to a device or system described in Subsections [~~(36)~~]
- 1589 (37)(b)(iii)(A)(I) through (V).
- 1590 [~~(37)~~] (38) (a) "Hearing aid accessory" means a hearing aid:
- 1591 (i) component;
- 1592 (ii) attachment; or
- 1593 (iii) accessory.
- 1594 (b) "Hearing aid accessory" includes:
- 1595 (i) a hearing aid neck loop;
- 1596 (ii) a hearing aid cord;
- 1597 (iii) a hearing aid ear mold;

- 1598 (iv) hearing aid tubing;
- 1599 (v) a hearing aid ear hook; or
- 1600 (vi) a hearing aid remote control.
- 1601 (c) "Hearing aid accessory" does not include:
- 1602 (i) a component, attachment, or accessory designed to be used only with an:
- 1603 (A) instrument or device described in Subsection [~~(36)~~] (37)(b)(i); or
- 1604 (B) assistive listening device or system described in Subsection [~~(36)~~] (37)(b)(ii) or (iii);
- 1605 or
- 1606 (ii) a hearing aid battery.
- 1607 [~~(38)~~] (39) "Hydroelectric energy" means water used as the sole source of energy to
- 1608 produce electricity.
- 1609 [~~(39)~~] (40) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil,
- 1610 or other fuels:
- 1611 (a) in mining or extraction of minerals;
- 1612 (b) in agricultural operations to produce an agricultural product up to the time of
- 1613 harvest or placing the agricultural product into a storage facility, including:
- 1614 (i) commercial greenhouses;
- 1615 (ii) irrigation pumps;
- 1616 (iii) farm machinery;
- 1617 (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not
- 1618 registered under Title 41, Chapter 1a, Part 2, Registration; and
- 1619 (v) other farming activities;
- 1620 (c) in manufacturing tangible personal property at an establishment described in SIC
- 1621 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
- 1622 Executive Office of the President, Office of Management and Budget;
- 1623 (d) by a scrap recycler if:
- 1624 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
- 1625 one or more of the following items into prepared grades of processed materials for use in new

1626 products:

1627 (A) iron;

1628 (B) steel;

1629 (C) nonferrous metal;

1630 (D) paper;

1631 (E) glass;

1632 (F) plastic;

1633 (G) textile; or

1634 (H) rubber; and

1635 (ii) the new products under Subsection [~~(39)~~] (40)(d)(i) would otherwise be made with

1636 nonrecycled materials; or

1637 (e) in producing a form of energy or steam described in Subsection 54-2-1(2)(a) by a

1638 cogeneration facility as defined in Section 54-2-1.

1639 [~~(40)~~] (41) (a) Except as provided in Subsection [~~(40)~~] (41)(b), "installation charge"

1640 means a charge for installing tangible personal property.

1641 (b) Notwithstanding Subsection [~~(40)~~] (41)(a), "installation charge" does not include a

1642 charge for repairs or renovations of tangible personal property.

1643 [~~(41)~~] (42) (a) "Lease" or "rental" means a transfer of possession or control of tangible

1644 personal property for:

1645 (i) (A) a fixed term; or

1646 (B) an indeterminate term; and

1647 (ii) consideration.

1648 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the

1649 amount of consideration may be increased or decreased by reference to the amount realized

1650 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue

1651 Code.

1652 (c) "Lease" or "rental" does not include:

1653 (i) a transfer of possession or control of property under a security agreement or

1654 deferred payment plan that requires the transfer of title upon completion of the required
1655 payments;

1656 (ii) a transfer of possession or control of property under an agreement that requires the
1657 transfer of title:

1658 (A) upon completion of required payments; and
1659 (B) if the payment of an option price does not exceed the greater of:

1660 (I) \$100; or
1661 (II) 1% of the total required payments; or

1662 (iii) providing tangible personal property along with an operator for a fixed period of
1663 time or an indeterminate period of time if the operator is necessary for equipment to perform as
1664 designed.

1665 (d) For purposes of Subsection [~~(41)~~] (42)(c)(iii), an operator is necessary for
1666 equipment to perform as designed if the operator's duties exceed the:

1667 (i) set-up of tangible personal property;
1668 (ii) maintenance of tangible personal property; or
1669 (iii) inspection of tangible personal property.

1670 [~~(42)~~] (43) "Load and leave" means delivery to a purchaser by use of a tangible storage
1671 media if the tangible storage media is not physically transferred to the purchaser.

1672 [~~(43)~~] (44) "Local taxing jurisdiction" means a:

1673 (a) county that is authorized to impose an agreement sales and use tax;
1674 (b) city that is authorized to impose an agreement sales and use tax; or
1675 (c) town that is authorized to impose an agreement sales and use tax.

1676 [~~(44)~~] (45) "Manufactured home" is as defined in Section 58-56-3.

1677 [~~(45)~~] (46) For purposes of Section 59-12-104, "manufacturing facility" means:

1678 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard
1679 Industrial Classification Manual of the federal Executive Office of the President, Office of
1680 Management and Budget;

1681 (b) a scrap recycler if:

1682 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
1683 one or more of the following items into prepared grades of processed materials for use in new
1684 products:

- 1685 (A) iron;
- 1686 (B) steel;
- 1687 (C) nonferrous metal;
- 1688 (D) paper;
- 1689 (E) glass;
- 1690 (F) plastic;
- 1691 (G) textile; or
- 1692 (H) rubber; and

1693 (ii) the new products under Subsection [~~(45)~~] (46)(b)(i) would otherwise be made with
1694 nonrecycled materials; or

1695 (c) a cogeneration facility as defined in Section 54-2-1.

1696 [~~(46)~~] (47) "Member of the immediate family of the producer" means a person who is
1697 related to a producer described in Subsection 59-12-104(20)(a) as a:

1698 (a) child or stepchild, regardless of whether the child or stepchild is:

1699 (i) an adopted child or adopted stepchild; or

1700 (ii) a foster child or foster stepchild;

1701 (b) grandchild or stepgrandchild;

1702 (c) grandparent or stepgrandparent;

1703 (d) nephew or stepnephew;

1704 (e) niece or stepniece;

1705 (f) parent or stepparent;

1706 (g) sibling or stepsibling;

1707 (h) spouse;

1708 (i) person who is the spouse of a person described in Subsections [~~(46)~~] (47)(a) through
1709 (g); or

1710 (j) person similar to a person described in Subsections [~~(46)~~] (47)(a) through (i) as
1711 determined by the commission by rule made in accordance with Title 63, Chapter 46a, Utah
1712 Administrative Rulemaking Act.

1713 [~~(47)~~] (48) "Mobile home" is as defined in Section 58-56-3.

1714 [~~(48)~~] (49) "Mobile telecommunications service" is as defined in the Mobile
1715 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

1716 [~~(49)~~] (50) (a) Except as provided in Subsection [~~(49)~~] (50)(c), "mobility enhancing
1717 equipment" means equipment that is:

1718 (i) primarily and customarily used to provide or increase the ability to move from one
1719 place to another;

1720 (ii) appropriate for use in a:

1721 (A) home; or

1722 (B) motor vehicle; and

1723 (iii) not generally used by persons with normal mobility.

1724 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
1725 the equipment described in Subsection [~~(49)~~] (50)(a).

1726 (c) Notwithstanding Subsection [~~(49)~~] (50)(a), "mobility enhancing equipment" does
1727 not include:

1728 (i) a motor vehicle;

1729 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
1730 vehicle manufacturer;

1731 (iii) durable medical equipment; or

1732 (iv) a prosthetic device.

1733 [~~(50)~~] (51) "Model 1 seller" means a seller that has selected a certified service provider
1734 as the seller's agent to perform all of the seller's sales and use tax functions for agreement sales
1735 and use taxes other than the seller's obligation under Section 59-12-107.4 to remit a tax on the
1736 seller's own purchases.

1737 [~~(51)~~] (52) "Model 2 seller" means a seller that:

1738 (a) except as provided in Subsection [~~(51)~~] (52)(b), has selected a certified automated
1739 system to perform the seller's sales tax functions for agreement sales and use taxes; and
1740 (b) notwithstanding Subsection [~~(51)~~] (52)(a), retains responsibility for remitting all of
1741 the sales tax:
1742 (i) collected by the seller; and
1743 (ii) to the appropriate local taxing jurisdiction.
1744 [~~(52)~~] (53) (a) Subject to Subsection [~~(52)~~] (53)(b), "model 3 seller" means a seller that
1745 has:
1746 (i) sales in at least five states that are members of the agreement;
1747 (ii) total annual sales revenues of at least \$500,000,000;
1748 (iii) a proprietary system that calculates the amount of tax:
1749 (A) for an agreement sales and use tax; and
1750 (B) due to each local taxing jurisdiction; and
1751 (iv) entered into a performance agreement with the governing board of the agreement.
1752 (b) For purposes of Subsection [~~(52)~~] (53)(a), "model 3 seller" includes an affiliated
1753 group of sellers using the same proprietary system.
1754 [~~(53)~~] (54) "Modular home" means a modular unit as defined in Section 58-56-3.
1755 [~~(54)~~] (55) "Motor vehicle" is as defined in Section 41-1a-102.
1756 [~~(55)~~] (56) "Oil shale" means a group of fine black to dark brown shales containing
1757 bituminous material that yields petroleum upon distillation.
1758 [~~(56)~~] (57) (a) "Other fuels" means products that burn independently to produce heat or
1759 energy.
1760 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
1761 personal property.
1762 [~~(57)~~] (58) "Pawnbroker" is as defined in Section 13-32a-102.
1763 [~~(58)~~] (59) "Pawn transaction" is as defined in Section 13-32a-102.
1764 [~~(59)~~] (60) (a) "Permanently attached to real property" means that for tangible personal
1765 property attached to real property:

- 1766 (i) the attachment of the tangible personal property to the real property:
1767 (A) is essential to the use of the tangible personal property; and
1768 (B) suggests that the tangible personal property will remain attached to the real
1769 property in the same place over the useful life of the tangible personal property; or
1770 (ii) if the tangible personal property is detached from the real property, the detachment
1771 would:
1772 (A) cause substantial damage to the tangible personal property; or
1773 (B) require substantial alteration or repair of the real property to which the tangible
1774 personal property is attached.
- 1775 (b) "Permanently attached to real property" includes:
1776 (i) the attachment of an accessory to the tangible personal property if the accessory is:
1777 (A) essential to the operation of the tangible personal property; and
1778 (B) attached only to facilitate the operation of the tangible personal property;
1779 (ii) a temporary detachment of tangible personal property from real property for a repair
1780 or renovation if the repair or renovation is performed where the tangible personal property and
1781 real property are located; or
1782 (iii) an attachment of the following tangible personal property to real property,
1783 regardless of whether the attachment to real property is only through a line that supplies water,
1784 electricity, gas, telephone, cable, or supplies a similar item as determined by the commission by
1785 rule made in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act:
1786 (A) property attached to oil, gas, or water pipelines, other than the property listed in
1787 Subsection ~~[(59)]~~ (60)(c)(iii);
1788 (B) a hot water heater;
1789 (C) a water softener system; or
1790 (D) a water filtration system, other than a water filtration system manufactured as part
1791 of a refrigerator.
- 1792 (c) "Permanently attached to real property" does not include:
1793 (i) the attachment of portable or movable tangible personal property to real property if

1794 that portable or movable tangible personal property is attached to real property only for:

1795 (A) convenience;

1796 (B) stability; or

1797 (C) for an obvious temporary purpose;

1798 (ii) the detachment of tangible personal property from real property other than the

1799 detachment described in Subsection [~~(59)~~] (60)(b)(ii); or

1800 (iii) an attachment of the following tangible personal property to real property if the

1801 attachment to real property is only through a line that supplies water, electricity, gas, telephone,

1802 cable, or supplies a similar item as determined by the commission by rule made in accordance

1803 with Title 63, Chapter 46a, Utah Administrative Rulemaking Act:

1804 (A) a refrigerator;

1805 (B) a washer;

1806 (C) a dryer;

1807 (D) a stove;

1808 (E) a television;

1809 (F) a computer;

1810 (G) a telephone; or

1811 (H) tangible personal property similar to Subsections [~~(59)~~] (60)(c)(iii)(A) through (G)

1812 as determined by the commission by rule made in accordance with Title 63, Chapter 46a, Utah

1813 Administrative Rulemaking Act.

1814 [~~(60)~~] (61) "Person" includes any individual, firm, partnership, joint venture,

1815 association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county,

1816 city, municipality, district, or other local governmental entity of the state, or any group or

1817 combination acting as a unit.

1818 [~~(61)~~] (62) "Place of primary use":

1819 (a) for telephone service other than mobile telecommunications service, means the

1820 street address representative of where the purchaser's use of the telephone service primarily

1821 occurs, which shall be:

- 1822 (i) the residential street address of the purchaser; or
1823 (ii) the primary business street address of the purchaser; or
1824 (b) for mobile telecommunications service, is as defined in the Mobile
1825 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
- 1826 ~~[(62)]~~ (63) "Postproduction" means an activity related to the finishing or duplication of
1827 a medium described in Subsection 59-12-104(56)(a).
- 1828 ~~[(63)]~~ (64) (a) "Prepared food" means:
1829 (i) food:
1830 (A) sold in a heated state; or
1831 (B) heated by a seller;
1832 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
1833 item; or
1834 (iii) except as provided in Subsection ~~[(63)]~~ (64)(c), food sold with an eating utensil
1835 provided by the seller, including a:
1836 (A) plate;
1837 (B) knife;
1838 (C) fork;
1839 (D) spoon;
1840 (E) glass;
1841 (F) cup;
1842 (G) napkin; or
1843 (H) straw.
- 1844 (b) "Prepared food" does not include:
1845 (i) food that a seller only:
1846 (A) cuts;
1847 (B) repackages; or
1848 (C) pasteurizes; or
1849 (ii) (A) the following:

1850 (I) raw egg;
1851 (II) raw fish;
1852 (III) raw meat;
1853 (IV) raw poultry; or
1854 (V) a food containing an item described in Subsections [~~(63)~~] (64)(b)(ii)(A)(I) through
1855 (IV); and
1856 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
1857 Food and Drug Administration's Food Code that a consumer cook the items described in
1858 Subsection [~~(63)~~] (64)(b)(ii)(A) to prevent food borne illness; or
1859 (iii) the following if sold without eating utensils provided by the seller:
1860 (A) food and food ingredients sold by a seller if the seller's proper primary classification
1861 under the 2002 North American Industry Classification System of the federal Executive Office
1862 of the President, Office of Management and Budget, is manufacturing in Sector 311, Food
1863 Manufacturing, except for Subsector 3118, Bakeries and Tortilla Manufacturing;
1864 (B) food and food ingredients sold in an unheated state:
1865 (I) by weight or volume; and
1866 (II) as a single item; or
1867 (C) a bakery item, including:
1868 (I) a bagel;
1869 (II) a bar;
1870 (III) a biscuit;
1871 (IV) bread;
1872 (V) a bun;
1873 (VI) a cake;
1874 (VII) a cookie;
1875 (VIII) a croissant;
1876 (IX) a danish;
1877 (X) a donut;

1878 (XI) a muffin;

1879 (XII) a pastry;

1880 (XIII) a pie;

1881 (XIV) a roll;

1882 (XV) a tart;

1883 (XVI) a torte; or

1884 (XVII) a tortilla.

1885 (c) Notwithstanding Subsection [~~(63)~~] (64)(a)(iii), an eating utensil provided by the
1886 seller does not include the following used to transport the food:

1887 (i) a container; or

1888 (ii) packaging.

1889 [~~(64)~~] (65) "Prescription" means an order, formula, or recipe that is issued:

1890 (a) (i) orally;

1891 (ii) in writing;

1892 (iii) electronically; or

1893 (iv) by any other manner of transmission; and

1894 (b) by a licensed practitioner authorized by the laws of a state.

1895 [~~(65)~~] (66) (a) Except as provided in Subsection [~~(65)~~] (66)(b)(ii) or (iii), "prewritten
1896 computer software" means computer software that is not designed and developed:

1897 (i) by the author or other creator of the computer software; and

1898 (ii) to the specifications of a specific purchaser.

1899 (b) "Prewritten computer software" includes:

1900 (i) a prewritten upgrade to computer software if the prewritten upgrade to the
1901 computer software is not designed and developed:

1902 (A) by the author or other creator of the computer software; and

1903 (B) to the specifications of a specific purchaser;

1904 (ii) notwithstanding Subsection [~~(65)~~] (66)(a), computer software designed and

1905 developed by the author or other creator of the computer software to the specifications of a

1906 specific purchaser if the computer software is sold to a person other than the purchaser; or
1907 (iii) notwithstanding Subsection ~~[(65)]~~ (66)(a) and except as provided in Subsection
1908 ~~[(65)]~~ (66)(c), prewritten computer software or a prewritten portion of prewritten computer
1909 software:

1910 (A) that is modified or enhanced to any degree; and

1911 (B) if the modification or enhancement described in Subsection ~~[(65)]~~ (66)(b)(iii)(A) is
1912 designed and developed to the specifications of a specific purchaser.

1913 (c) Notwithstanding Subsection ~~[(65)]~~ (66)(b)(iii), "prewritten computer software" does
1914 not include a modification or enhancement described in Subsection ~~[(65)]~~ (66)(b)(iii) if the
1915 charges for the modification or enhancement are:

1916 (i) reasonable; and

1917 (ii) separately stated on the invoice or other statement of price provided to the
1918 purchaser.

1919 ~~[(66)]~~ (67) (a) "Prosthetic device" means a device that is worn on or in the body to:

1920 (i) artificially replace a missing portion of the body;

1921 (ii) prevent or correct a physical deformity or physical malfunction; or

1922 (iii) support a weak or deformed portion of the body.

1923 (b) "Prosthetic device" includes:

1924 (i) parts used in the repairs or renovation of a prosthetic device; ~~[or]~~

1925 (ii) replacement parts for a prosthetic device~~[-];~~ or

1926 (iii) a dental prosthesis.

1927 (c) "Prosthetic device" does not include:

1928 (i) corrective eyeglasses;

1929 (ii) contact lenses; or

1930 (iii) hearing aids~~[-; or]~~.

1931 ~~[(iv) dental prostheses.]~~

1932 ~~[(67)]~~ (68) (a) "Protective equipment" means an item:

1933 (i) for human wear; and

1934 (ii) that is:
1935 (A) designed as protection:
1936 (I) to the wearer against injury or disease; or
1937 (II) against damage or injury of other persons or property; and
1938 (B) not suitable for general use.
1939 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1940 commission shall make rules:
1941 (i) listing the items that constitute "protective equipment"; and
1942 (ii) that are consistent with the list of items that constitute "protective equipment" under
1943 the agreement.
1944 ~~[(68)]~~ (69) (a) "Purchase price" and "sales price" mean the total amount of
1945 consideration:
1946 (i) valued in money; and
1947 (ii) for which tangible personal property or services are:
1948 (A) sold;
1949 (B) leased; or
1950 (C) rented.
1951 (b) "Purchase price" and "sales price" include:
1952 (i) the seller's cost of the tangible personal property or services sold;
1953 (ii) expenses of the seller, including:
1954 (A) the cost of materials used;
1955 (B) a labor cost;
1956 (C) a service cost;
1957 (D) interest;
1958 (E) a loss;
1959 (F) the cost of transportation to the seller; or
1960 (G) a tax imposed on the seller; or
1961 (iii) a charge by the seller for any service necessary to complete the sale.

- 1962 (c) "Purchase price" and "sales price" do not include:
- 1963 (i) a discount:
- 1964 (A) in a form including:
- 1965 (I) cash;
- 1966 (II) term; or
- 1967 (III) coupon;
- 1968 (B) that is allowed by a seller;
- 1969 (C) taken by a purchaser on a sale; and
- 1970 (D) that is not reimbursed by a third party; or
- 1971 (ii) the following if separately stated on an invoice, bill of sale, or similar document
- 1972 provided to the purchaser:
- 1973 (A) the amount of a trade-in;
- 1974 (B) the following from credit extended on the sale of tangible personal property or
- 1975 services:
- 1976 (I) interest charges;
- 1977 (II) financing charges; or
- 1978 (III) carrying charges;
- 1979 (C) a tax or fee legally imposed directly on the consumer;
- 1980 (D) a delivery charge; or
- 1981 (E) an installation charge.
- 1982 [~~(69)~~] (70) "Purchaser" means a person to whom:
- 1983 (a) a sale of tangible personal property is made; or
- 1984 (b) a service is furnished.
- 1985 [~~(70)~~] (71) "Regularly rented" means:
- 1986 (a) rented to a guest for value three or more times during a calendar year; or
- 1987 (b) advertised or held out to the public as a place that is regularly rented to guests for
- 1988 value.
- 1989 [~~(71)~~] (72) "Renewable energy" means:

- 1990 (a) biomass energy;
- 1991 (b) hydroelectric energy;
- 1992 (c) geothermal energy;
- 1993 (d) solar energy; or
- 1994 (e) wind energy.
- 1995 ~~[(72)]~~ (73) (a) "Renewable energy production facility" means a facility that:
- 1996 (i) uses renewable energy to produce electricity; and
- 1997 (ii) has a production capacity of 20 kilowatts or greater.
- 1998 (b) A facility is a renewable energy production facility regardless of whether the facility
- 1999 is:
- 2000 (i) connected to an electric grid; or
- 2001 (ii) located on the premises of an electricity consumer.
- 2002 ~~[(73)]~~ (74) "Rental" is as defined in Subsection ~~[(41)]~~ (42).
- 2003 ~~[(74)]~~ (75) "Repairs or renovations of tangible personal property" means:
- 2004 (a) a repair or renovation of tangible personal property that is not permanently attached
- 2005 to real property; or
- 2006 (b) attaching tangible personal property to other tangible personal property if the other
- 2007 tangible personal property to which the tangible personal property is attached is not
- 2008 permanently attached to real property.
- 2009 ~~[(75)]~~ (76) "Research and development" means the process of inquiry or
- 2010 experimentation aimed at the discovery of facts, devices, technologies, or applications and the
- 2011 process of preparing those devices, technologies, or applications for marketing.
- 2012 ~~[(76)]~~ (77) "Residential use" means the use in or around a home, apartment building,
- 2013 sleeping quarters, and similar facilities or accommodations.
- 2014 ~~[(77)]~~ (78) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose
- 2015 other than:
- 2016 (a) resale;
- 2017 (b) sublease; or

2018 (c) subrent.

2019 [~~(78)~~] (79) (a) "Retailer" means any person engaged in a regularly organized business in
2020 tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and
2021 who is selling to the user or consumer and not for resale.

2022 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
2023 engaged in the business of selling to users or consumers within the state.

2024 [~~(79)~~] (80) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
2025 otherwise, in any manner, of tangible personal property or any other taxable transaction under
2026 Subsection 59-12-103(1), for consideration.

2027 (b) "Sale" includes:

2028 (i) installment and credit sales;

2029 (ii) any closed transaction constituting a sale;

2030 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
2031 chapter;

2032 (iv) any transaction if the possession of property is transferred but the seller retains the
2033 title as security for the payment of the price; and

2034 (v) any transaction under which right to possession, operation, or use of any article of
2035 tangible personal property is granted under a lease or contract and the transfer of possession
2036 would be taxable if an outright sale were made.

2037 [~~(80)~~] (81) "Sale at retail" is as defined in Subsection [~~(77)~~] (78).

2038 [~~(81)~~] (82) "Sale-leaseback transaction" means a transaction by which title to tangible
2039 personal property that is subject to a tax under this chapter is transferred:

2040 (a) by a purchaser-lessee;

2041 (b) to a lessor;

2042 (c) for consideration; and

2043 (d) if:

2044 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
2045 of the tangible personal property;

2046 (ii) the sale of the tangible personal property to the lessor is intended as a form of
2047 financing:
2048 (A) for the property; and
2049 (B) to the purchaser-lessee; and
2050 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee is
2051 required to:
2052 (A) capitalize the property for financial reporting purposes; and
2053 (B) account for the lease payments as payments made under a financing arrangement.
2054 ~~[(82)]~~ (83) "Sales price" is as defined in Subsection ~~[(68)]~~ (69).
2055 ~~[(83)]~~ (84) (a) "Sales relating to schools" means the following sales by, amounts paid
2056 to, or amounts charged by a school:
2057 (i) sales that are directly related to the school's educational functions or activities
2058 including:
2059 (A) the sale of:
2060 (I) textbooks;
2061 (II) textbook fees;
2062 (III) laboratory fees;
2063 (IV) laboratory supplies; or
2064 (V) safety equipment;
2065 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
2066 that:
2067 (I) a student is specifically required to wear as a condition of participation in a
2068 school-related event or school-related activity; and
2069 (II) is not readily adaptable to general or continued usage to the extent that it takes the
2070 place of ordinary clothing;
2071 (C) sales of the following if the net or gross revenues generated by the sales are
2072 deposited into a school district fund or school fund dedicated to school meals:
2073 (I) food and food ingredients; or

2074 (II) prepared food; or
2075 (D) transportation charges for official school activities; or
2076 (ii) amounts paid to or amounts charged by a school for admission to a school-related
2077 event or school-related activity.

2078 (b) "Sales relating to schools" does not include:
2079 (i) bookstore sales of items that are not educational materials or supplies;
2080 (ii) except as provided in Subsection [~~(83)~~] (84)(a)(i)(B):
2081 (A) clothing;
2082 (B) clothing accessories or equipment;
2083 (C) protective equipment; or
2084 (D) sports or recreational equipment; or
2085 (iii) amounts paid to or amounts charged by a school for admission to a school-related
2086 event or school-related activity if the amounts paid or charged are passed through to a person:
2087 (A) other than a:
2088 (I) school;
2089 (II) nonprofit organization authorized by a school board or a governing body of a
2090 private school to organize and direct a competitive secondary school activity; or
2091 (III) nonprofit association authorized by a school board or a governing body of a
2092 private school to organize and direct a competitive secondary school activity; and
2093 (B) that is required to collect sales and use taxes under this chapter.

2094 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
2095 commission may make rules defining the term "passed through."
2096 [~~(84)~~] (85) For purposes of this section and Section 59-12-104, "school" means:
2097 (a) an elementary school or a secondary school that:
2098 (i) is a:
2099 (A) public school; or
2100 (B) private school; and
2101 (ii) provides instruction for one or more grades kindergarten through 12; or

- 2102 (b) a public school district.
- 2103 [~~(85)~~] (86) "Seller" means a person that makes a sale, lease, or rental of:
- 2104 (a) tangible personal property; or
- 2105 (b) a service.
- 2106 [~~(86)~~] (87) (a) "Semiconductor fabricating, processing, research, or development
- 2107 materials" means tangible personal property:
- 2108 (i) used primarily in the process of:
- 2109 (A) (I) manufacturing a semiconductor;
- 2110 (II) fabricating a semiconductor; or
- 2111 (III) research or development of a:
- 2112 (Aa) semiconductor; or
- 2113 (Bb) semiconductor manufacturing process; or
- 2114 (B) maintaining an environment suitable for a semiconductor; or
- 2115 (ii) consumed primarily in the process of:
- 2116 (A) (I) manufacturing a semiconductor;
- 2117 (II) fabricating a semiconductor; or
- 2118 (III) research or development of a:
- 2119 (Aa) semiconductor; or
- 2120 (Bb) semiconductor manufacturing process; or
- 2121 (B) maintaining an environment suitable for a semiconductor.
- 2122 (b) "Semiconductor fabricating, processing, research, or development materials"
- 2123 includes:
- 2124 (i) parts used in the repairs or renovations of tangible personal property described in
- 2125 Subsection [~~(86)~~] (87)(a); or
- 2126 (ii) a chemical, catalyst, or other material used to:
- 2127 (A) produce or induce in a semiconductor a:
- 2128 (I) chemical change; or
- 2129 (II) physical change;

2130 (B) remove impurities from a semiconductor; or
2131 (C) improve the marketable condition of a semiconductor.
2132 ~~[(87)]~~ (88) "Senior citizen center" means a facility having the primary purpose of
2133 providing services to the aged as defined in Section 62A-3-101.
2134 ~~[(88)]~~ (89) "Simplified electronic return" means the electronic return:
2135 (a) described in Section 318(C) of the agreement; and
2136 (b) approved by the governing board of the agreement.
2137 ~~[(89)]~~ (90) "Solar energy" means the sun used as the sole source of energy for
2138 producing electricity.
2139 ~~[(90)]~~ (91) (a) "Sports or recreational equipment" means an item:
2140 (i) designed for human use; and
2141 (ii) that is:
2142 (A) worn in conjunction with:
2143 (I) an athletic activity; or
2144 (II) a recreational activity; and
2145 (B) not suitable for general use.
2146 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
2147 commission shall make rules:
2148 (i) listing the items that constitute "sports or recreational equipment"; and
2149 (ii) that are consistent with the list of items that constitute "sports or recreational
2150 equipment" under the agreement.
2151 ~~[(91)]~~ (92) "State" means the state of Utah, its departments, and agencies.
2152 ~~[(92)]~~ (93) "Storage" means any keeping or retention of tangible personal property or
2153 any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose
2154 except sale in the regular course of business.
2155 ~~[(93)]~~ (94) (a) "Tangible personal property" means personal property that:
2156 (i) may be:
2157 (A) seen;

2158 (B) weighed;
2159 (C) measured;
2160 (D) felt; or
2161 (E) touched; or
2162 (ii) is in any manner perceptible to the senses.
2163 (b) "Tangible personal property" includes:
2164 (i) electricity;
2165 (ii) water;
2166 (iii) gas;
2167 (iv) steam; or
2168 (v) prewritten computer software.
2169 ~~[(94)]~~ (95) "Tar sands" means impregnated sands that yield mixtures of liquid
2170 hydrocarbon and require further processing other than mechanical blending before becoming
2171 finished petroleum products.
2172 ~~[(95)]~~ (96) (a) "Telecommunications enabling or facilitating equipment, machinery, or
2173 software" means an item listed in Subsection ~~[(95)]~~ (96)(b) if that item is purchased or leased
2174 primarily to enable or facilitate one or more of the following to function:
2175 (i) telecommunications switching or routing equipment, machinery, or software; or
2176 (ii) telecommunications transmission equipment, machinery, or software.
2177 (b) The following apply to Subsection ~~[(95)]~~ (96)(a):
2178 (i) a pole;
2179 (ii) software;
2180 (iii) a supplementary power supply;
2181 (iv) temperature or environmental equipment or machinery;
2182 (v) test equipment;
2183 (vi) a tower; or
2184 (vii) equipment, machinery, or software that functions similarly to an item listed in
2185 Subsections ~~[(95)]~~ (96)(b)(i) through (vi) as determined by the commission by rule made in

2186 accordance with Subsection [~~(95)~~] (96)(c).

2187 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
2188 commission may by rule define what constitutes equipment, machinery, or software that
2189 functions similarly to an item listed in Subsections [~~(95)~~] (96)(b)(i) through (vi).

2190 [~~(96)~~] (97) "Telecommunications equipment, machinery, or software required for 911
2191 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.
2192 Sec. 20.18.

2193 [~~(97)~~] (98) "Telecommunications maintenance or repair equipment, machinery, or
2194 software" means equipment, machinery, or software purchased or leased primarily to maintain
2195 or repair one or more of the following, regardless of whether the equipment, machinery, or
2196 software is purchased or leased as a spare part or as an upgrade or modification to one or more
2197 of the following:

2198 (a) telecommunications enabling or facilitating equipment, machinery, or software;

2199 (b) telecommunications switching or routing equipment, machinery, or software; or

2200 (c) telecommunications transmission equipment, machinery, or software.

2201 [~~(98)~~] (99) (a) "Telecommunications switching or routing equipment, machinery, or
2202 software" means an item listed in Subsection [~~(98)~~] (99)(b) if that item is purchased or leased
2203 primarily for switching or routing:

2204 (i) voice communications;

2205 (ii) data communications; or

2206 (iii) telephone service.

2207 (b) The following apply to Subsection [~~(98)~~] (99)(a):

2208 (i) a bridge;

2209 (ii) a computer;

2210 (iii) a cross connect;

2211 (iv) a modem;

2212 (v) a multiplexer;

2213 (vi) plug in circuitry;

2214 (vii) a router;
2215 (viii) software;
2216 (ix) a switch; or
2217 (x) equipment, machinery, or software that functions similarly to an item listed in
2218 Subsections [~~(98)~~] (99)(b)(i) through (ix) as determined by the commission by rule made in
2219 accordance with Subsection [~~(98)~~] (99)(c).

2220 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
2221 commission may by rule define what constitutes equipment, machinery, or software that
2222 functions similarly to an item listed in Subsections [~~(98)~~] (99)(b)(i) through (ix).

2223 [~~(99)~~] (100) (a) "Telecommunications transmission equipment, machinery, or software"
2224 means an item listed in Subsection [~~(99)~~] (100)(b) if that item is purchased or leased primarily
2225 for sending, receiving, or transporting:

2226 (i) voice communications;
2227 (ii) data communications; or
2228 (iii) telephone service.

2229 (b) The following apply to Subsection [~~(99)~~] (100)(a):

2230 (i) an amplifier;
2231 (ii) a cable;
2232 (iii) a closure;
2233 (iv) a conduit;
2234 (v) a controller;
2235 (vi) a duplexer;
2236 (vii) a filter;
2237 (viii) an input device;
2238 (ix) an input/output device;
2239 (x) an insulator;
2240 (xi) microwave machinery or equipment;
2241 (xii) an oscillator;

- 2242 (xiii) an output device;
2243 (xiv) a pedestal;
2244 (xv) a power converter;
2245 (xvi) a power supply;
2246 (xvii) a radio channel;
2247 (xviii) a radio receiver;
2248 (xix) a radio transmitter;
2249 (xx) a repeater;
2250 (xxi) software;
2251 (xxii) a terminal;
2252 (xxiii) a timing unit;
2253 (xxiv) a transformer;
2254 (xxv) a wire; or
2255 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
2256 Subsections [~~(99)~~] (100)(b)(i) through (xxv) as determined by the commission by rule made in
2257 accordance with Subsection [~~(99)~~] (100)(c).
2258 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
2259 commission may by rule define what constitutes equipment, machinery, or software that
2260 functions similarly to an item listed in Subsections [~~(99)~~] (100)(b)(i) through (xxv).
2261 [~~(100)~~] (101) (a) "Telephone service" means a two-way transmission:
2262 (i) by:
2263 (A) wire;
2264 (B) radio;
2265 (C) lightwave; or
2266 (D) other electromagnetic means; and
2267 (ii) of one or more of the following:
2268 (A) a sign;
2269 (B) a signal;

2270 (C) writing;
2271 (D) an image;
2272 (E) sound;
2273 (F) a message;
2274 (G) data; or
2275 (H) other information of any nature.
2276 (b) "Telephone service" includes:
2277 (i) mobile telecommunications service;
2278 (ii) private communications service; or
2279 (iii) automated digital telephone answering service.
2280 (c) "Telephone service" does not include a service or a transaction that a state or a
2281 political subdivision of a state is prohibited from taxing as of July 1, 2001, under the Internet
2282 Tax Freedom Act, Pub. L. No. 105-277.
2283 ~~[(101)]~~ (102) Notwithstanding where a call is billed or paid, "telephone service address"
2284 means:
2285 (a) if the location described in this Subsection ~~[(101)]~~ (102)(a) is known, the location of
2286 the telephone service equipment:
2287 (i) to which a call is charged; and
2288 (ii) from which the call originates or terminates;
2289 (b) if the location described in Subsection ~~[(101)]~~ (102)(a) is not known but the
2290 location described in this Subsection ~~[(101)]~~ (102)(b) is known, the location of the origination
2291 point of the signal of the telephone service first identified by:
2292 (i) the telecommunications system of the seller; or
2293 (ii) if the system used to transport the signal is not that of the seller, information
2294 received by the seller from its service provider; or
2295 (c) if the locations described in Subsection ~~[(101)]~~ (102)(a) or (b) are not known, the
2296 location of a purchaser's primary place of use.
2297 ~~[(102)]~~ (103) (a) "Telephone service provider" means a person that:

- 2298 (i) owns, controls, operates, or manages a telephone service; and
2299 (ii) engages in an activity described in Subsection [~~(102)~~] (103)(a)(i) for the shared use
2300 with or resale to any person of the telephone service.
- 2301 (b) A person described in Subsection [~~(102)~~] (103)(a) is a telephone service provider
2302 whether or not the Public Service Commission of Utah regulates:
- 2303 (i) that person; or
2304 (ii) the telephone service that the person owns, controls, operates, or manages.
- 2305 [~~(103)~~] (104) "Tobacco" means:
2306 (a) a cigarette;
2307 (b) a cigar;
2308 (c) chewing tobacco;
2309 (d) pipe tobacco; or
2310 (e) any other item that contains tobacco.
- 2311 [~~(104)~~] (105) "Unassisted amusement device" means an amusement device, skill device,
2312 or ride device that is started and stopped by the purchaser or renter of the right to use or
2313 operate the amusement device, skill device, or ride device.
- 2314 [~~(105)~~] (106) (a) "Use" means the exercise of any right or power over tangible personal
2315 property under Subsection 59-12-103(1), incident to the ownership or the leasing of that
2316 property, item, or service.
- 2317 (b) "Use" does not include the sale, display, demonstration, or trial of that property in
2318 the regular course of business and held for resale.
- 2319 [~~(106)~~] (107) (a) Subject to Subsection [~~(106)~~] (107)(b), "vehicle" means the following
2320 that are required to be titled, registered, or titled and registered:
- 2321 (i) an aircraft as defined in Section 72-10-102;
2322 (ii) a vehicle as defined in Section 41-1a-102;
2323 (iii) an off-highway vehicle as defined in Section 41-22-2; or
2324 (iv) a vessel as defined in Section 41-1a-102.
- 2325 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

2326 (i) a vehicle described in Subsection [~~(106)~~] (107)(a); or

2327 (ii) (A) a locomotive;

2328 (B) a freight car;

2329 (C) railroad work equipment; or

2330 (D) other railroad rolling stock.

2331 [~~(107)~~] (108) "Vehicle dealer" means a person engaged in the business of buying,
2332 selling, or exchanging a vehicle as defined in Subsection [~~(106)~~] (107).

2333 [~~(108)~~] (109) (a) Except as provided in Subsection [~~(108)~~] (109)(b), "waste energy
2334 facility" means a facility that generates electricity:

2335 (i) using as the primary source of energy waste materials that would be placed in a
2336 landfill or refuse pit if it were not used to generate electricity, including:

2337 (A) tires;

2338 (B) waste coal; or

2339 (C) oil shale; and

2340 (ii) in amounts greater than actually required for the operation of the facility.

2341 (b) "Waste energy facility" does not include a facility that incinerates:

2342 (i) municipal solid waste;

2343 (ii) hospital waste as defined in 40 C.F.R. 60.51c; or

2344 (iii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

2345 [~~(109)~~] (110) "Watercraft" means a vessel as defined in Section 73-18-2.

2346 [~~(110)~~] (111) "Wind energy" means wind used as the sole source of energy to produce
2347 electricity.

2348 [~~(111)~~] (112) "ZIP Code" means a Zoning Improvement Plan Code assigned to a
2349 geographic location by the United States Postal Service.

2350 Section 16. Section **59-12-103** is amended to read:

2351 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**
2352 **tax revenues.**

2353 (1) A tax is imposed on the purchaser as provided in this part for amounts paid or

2354 charged for the following transactions:

2355 (a) retail sales of tangible personal property made within the state;

2356 (b) amounts paid:

2357 (i) (A) to a common carrier; or

2358 (B) whether the following are municipally or privately owned, to a:

2359 (I) telephone service provider; or

2360 (II) telegraph corporation as defined in Section 54-2-1; and

2361 (ii) for:

2362 (A) telephone service, other than mobile telecommunications service, that originates

2363 and terminates within the boundaries of this state;

2364 (B) mobile telecommunications service that originates and terminates within the

2365 boundaries of one state only to the extent permitted by the Mobile Telecommunications

2366 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

2367 (C) telegraph service;

2368 (c) sales of the following for commercial use:

2369 (i) gas;

2370 (ii) electricity;

2371 (iii) heat;

2372 (iv) coal;

2373 (v) fuel oil; or

2374 (vi) other fuels;

2375 (d) sales of the following for residential use:

2376 (i) gas;

2377 (ii) electricity;

2378 (iii) heat;

2379 (iv) coal;

2380 (v) fuel oil; or

2381 (vi) other fuels;

2382 (e) sales of prepared food;

2383 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
2384 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
2385 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs,
2386 races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
2387 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
2388 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis
2389 courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
2390 horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition,
2391 cultural, or athletic activity;

2392 (g) amounts paid or charged for services for repairs or renovations of tangible personal
2393 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

2394 (i) the tangible personal property; and

2395 (ii) parts used in the repairs or renovations of the tangible personal property described
2396 in Subsection (1)(g)(i), whether or not any parts are actually used in the repairs or renovations
2397 of that tangible personal property;

2398 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
2399 assisted cleaning or washing of tangible personal property;

2400 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
2401 accommodations and services that are regularly rented for less than 30 consecutive days;

2402 (j) amounts paid or charged for laundry or dry cleaning services;

2403 (k) amounts paid or charged for leases or rentals of tangible personal property if within
2404 this state the tangible personal property is:

2405 (i) stored;

2406 (ii) used; or

2407 (iii) otherwise consumed;

2408 (l) amounts paid or charged for tangible personal property if within this state the
2409 tangible personal property is:

- 2410 (i) stored;
- 2411 (ii) used; or
- 2412 (iii) consumed; and
- 2413 (m) amounts paid or charged for prepaid telephone calling cards.
- 2414 (2) (a) Except as provided in Subsection (2)(b) or (f), a state tax and a local tax is
- 2415 imposed on a transaction described in Subsection (1) equal to the sum of:
- 2416 (i) a state tax imposed on the transaction at a rate of [~~4.75%~~] 4.65%; and
- 2417 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
- 2418 transaction under this chapter other than this part.
- 2419 (b) (i) A state tax and a local tax is imposed on a transaction described in Subsection
- 2420 (1)(d) equal to the sum of:
- 2421 (A) a state tax imposed on the transaction at a rate of 2%; and
- 2422 (B) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
- 2423 transaction under this chapter other than this part; or
- 2424 (ii) if a seller collects a tax in accordance with Subsection 59-12-107(1)(b) on a
- 2425 transaction described in Subsection (1), a state tax and a local tax is imposed on the transaction
- 2426 equal to the sum of:
- 2427 (A) a state tax imposed on the transaction at a rate of:
- 2428 (I) [~~4.75%~~] 4.65% for a transaction other than a transaction described in Subsection
- 2429 (1)(d); or
- 2430 (II) 2% for a transaction described in Subsection (1)(d); and
- 2431 (B) a local tax imposed on the transaction at a rate equal to the sum of the following
- 2432 rates:
- 2433 (I) the tax rate authorized by Section 59-12-204, but only if all of the counties, cities,
- 2434 and towns in the state impose the tax under Section 59-12-204; and
- 2435 (II) the tax rate authorized by Section 59-12-1102, but only if all of the counties in the
- 2436 state impose the tax under Section 59-12-1102.
- 2437 (iii) Except as provided in Subsection (2)(f), beginning on January 1, 2007, a state tax

2438 and a local tax is imposed on amounts paid or charged for food and food ingredients equal to
2439 the sum of:

2440 (A) a state tax imposed on the amounts paid or charged for food and food ingredients
2441 at a rate of [~~2.75%;~~] 1.75%; and

2442 (B) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
2443 amounts paid or charged for food and food ingredients under this chapter other than this part.

2444 (c) Subject to Subsections (2)(d) and (e), a tax rate repeal or tax rate change for a tax
2445 rate imposed under the following shall take effect on the first day of a calendar quarter:

2446 (i) Subsection (2)(a)(i);

2447 (ii) Subsection (2)(b)(i)(A);

2448 (iii) Subsection (2)(b)(ii)(A); or

2449 (iv) Subsection (2)(b)(iii)(A).

2450 (d) (i) For a transaction described in Subsection (2)(d)(iii), a tax rate increase shall take
2451 effect on the first day of the first billing period:

2452 (A) that begins after the effective date of the tax rate increase; and

2453 (B) if the billing period for the transaction begins before the effective date of a tax rate
2454 increase imposed under:

2455 (I) Subsection (2)(a)(i);

2456 (II) Subsection (2)(b)(i)(A); or

2457 (III) Subsection (2)(b)(ii)(A).

2458 (ii) For a transaction described in Subsection (2)(d)(iii), the repeal of a tax or a tax rate
2459 decrease shall take effect on the first day of the last billing period:

2460 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
2461 and

2462 (B) if the billing period for the transaction begins before the effective date of the repeal
2463 of the tax or the tax rate decrease imposed under:

2464 (I) Subsection (2)(a)(i);

2465 (II) Subsection (2)(b)(i)(A); or

- 2466 (III) Subsection (2)(b)(ii)(A).
- 2467 (iii) Subsections (2)(d)(i) and (ii) apply to transactions subject to a tax under:
- 2468 (A) Subsection (1)(b);
- 2469 (B) Subsection (1)(c);
- 2470 (C) Subsection (1)(d);
- 2471 (D) Subsection (1)(e);
- 2472 (E) Subsection (1)(f);
- 2473 (F) Subsection (1)(g);
- 2474 (G) Subsection (1)(h);
- 2475 (H) Subsection (1)(i);
- 2476 (I) Subsection (1)(j); or
- 2477 (J) Subsection (1)(k).
- 2478 (e) (i) If a tax due under Subsection (2)(a)(i) or (2)(b)(ii)(A) on a catalogue sale is
- 2479 computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or
- 2480 change in a tax rate imposed under Subsection (2)(a)(i) or (2)(b)(ii)(A) takes effect:
- 2481 (A) on the first day of a calendar quarter; and
- 2482 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change
- 2483 under Subsection (2)(a)(i) or (2)(b)(ii)(A).
- 2484 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 2485 commission may by rule define the term "catalogue sale."
- 2486 (f) If the price of a bundled transaction is attributable to food and food ingredients and
- 2487 tangible personal property other than food and food ingredients, the tax imposed on the entire
- 2488 bundled transaction is the sum of the tax rates described in Subsection (2)(a).
- 2489 (3) (a) Except as provided in Subsections (4) through (9), the following state taxes shall
- 2490 be deposited into the General Fund:
- 2491 (i) the tax imposed by Subsection (2)(a)(i);
- 2492 (ii) the tax imposed by Subsection (2)(b)(i)(A);
- 2493 (iii) the tax imposed by Subsection (2)(b)(ii)(A); or

2494 (iv) the tax imposed by Subsection (2)(b)(iii)(A).

2495 (b) The local taxes described in Subsections (2)(a)(ii), (2)(b)(i)(B), and (2)(b)(iii)(B)
2496 shall be distributed to a county, city, or town as provided in this chapter.

2497 (c) (i) Notwithstanding any provision of this chapter, each county, city, or town in the
2498 state shall receive the county's, city's, or town's proportionate share of the revenues generated
2499 by the local tax described in Subsection (2)(b)(ii)(B) as provided in Subsection (3)(c)(ii).

2500 (ii) The commission shall determine a county's, city's, or town's proportionate share of
2501 the revenues under Subsection (3)(c)(i) by:

2502 (A) calculating an amount equal to the population of the unincorporated area of the
2503 county, city, or town divided by the total population of the state; and

2504 (B) multiplying the amount determined under Subsection (3)(c)(ii)(A) by the total
2505 amount of revenues generated by the local tax under Subsection (2)(b)(ii)(B) for all counties,
2506 cities, and towns.

2507 (iii) (A) Except as provided in Subsection (3)(c)(iii)(B), population figures for purposes
2508 of this section shall be derived from the most recent official census or census estimate of the
2509 United States Census Bureau.

2510 (B) If a needed population estimate is not available from the United States Census
2511 Bureau, population figures shall be derived from the estimate from the Utah Population
2512 Estimates Committee created by executive order of the governor.

2513 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
2514 2003, the lesser of the following amounts shall be used as provided in Subsections (4)(b)
2515 through (g):

2516 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

2517 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and

2518 (B) for the fiscal year; or

2519 (ii) \$17,500,000.

2520 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount described
2521 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Department of

2522 Natural Resources to:

2523 (A) implement the measures described in Subsections 63-34-14(4)(a) through (d) to
2524 protect sensitive plant and animal species; or

2525 (B) award grants, up to the amount authorized by the Legislature in an appropriations
2526 act, to political subdivisions of the state to implement the measures described in Subsections
2527 63-34-14(4)(a) through (d) to protect sensitive plant and animal species.

2528 (ii) Money transferred to the Department of Natural Resources under Subsection
2529 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
2530 person to list or attempt to have listed a species as threatened or endangered under the
2531 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

2532 (iii) At the end of each fiscal year:

2533 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
2534 Conservation and Development Fund created in Section 73-10-24;

2535 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
2536 Program Subaccount created in Section 73-10c-5; and

2537 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
2538 Program Subaccount created in Section 73-10c-5.

2539 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
2540 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund
2541 created in Section 4-18-6.

2542 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described
2543 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water
2544 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water
2545 rights.

2546 (ii) At the end of each fiscal year:

2547 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
2548 Conservation and Development Fund created in Section 73-10-24;

2549 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan

2550 Program Subaccount created in Section 73-10c-5; and

2551 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
2552 Program Subaccount created in Section 73-10c-5.

2553 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described
2554 in Subsection (4)(a) shall be deposited in the Water Resources Conservation and Development
2555 Fund created in Section 73-10-24 for use by the Division of Water Resources.

2556 (ii) In addition to the uses allowed of the Water Resources Conservation and
2557 Development Fund under Section 73-10-24, the Water Resources Conservation and
2558 Development Fund may also be used to:

2559 (A) conduct hydrologic and geotechnical investigations by the Division of Water
2560 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
2561 quantifying surface and ground water resources and describing the hydrologic systems of an
2562 area in sufficient detail so as to enable local and state resource managers to plan for and
2563 accommodate growth in water use without jeopardizing the resource;

2564 (B) fund state required dam safety improvements; and

2565 (C) protect the state's interest in interstate water compact allocations, including the
2566 hiring of technical and legal staff.

2567 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
2568 in Subsection (4)(a) shall be deposited in the Utah Wastewater Loan Program Subaccount
2569 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

2570 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
2571 in Subsection (4)(a) shall be deposited in the Drinking Water Loan Program Subaccount created
2572 in Section 73-10c-5 for use by the Division of Drinking Water to:

2573 (i) provide for the installation and repair of collection, treatment, storage, and
2574 distribution facilities for any public water system, as defined in Section 19-4-102;

2575 (ii) develop underground sources of water, including springs and wells; and

2576 (iii) develop surface water sources.

2577 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,

2578 2006, the difference between the following amounts shall be expended as provided in this
2579 Subsection (5), if that difference is greater than \$1:

2580 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the
2581 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and
2582 (ii) \$17,500,000.

2583 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

2584 (A) transferred each fiscal year to the Department of Natural Resources as dedicated
2585 credits; and
2586 (B) expended by the Department of Natural Resources for watershed rehabilitation or
2587 restoration.

2588 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
2589 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund
2590 created in Section 73-10-24.

2591 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the
2592 remaining difference described in Subsection (5)(a) shall be:

2593 (A) transferred each fiscal year to the Division of Water Resources as dedicated credits;
2594 and
2595 (B) expended by the Division of Water Resources for cloud-seeding projects authorized
2596 by Title 73, Chapter 15, Modification of Weather.

2597 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
2598 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund
2599 created in Section 73-10-24.

2600 (d) After making the transfers required by Subsections (5)(b) and (c), 94% of the
2601 remaining difference described in Subsection (5)(a) shall be deposited into the Water Resources
2602 Conservation and Development Fund created in Section 73-10-24 for use by the Division of
2603 Water Resources for:

2604 (i) preconstruction costs:

2605 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter

2606 26, Bear River Development Act; and
2607 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
2608 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;
2609 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,
2610 Chapter 26, Bear River Development Act;
2611 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project
2612 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and
2613 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, 73-10-30, and
2614 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).
2615 (e) Any unexpended monies described in Subsection (5)(d) that remain in the Water
2616 Resources Conservation and Development Fund at the end of the fiscal year are nonlapsing.
2617 (f) After making the transfers required by Subsections (5)(b) and (c) and subject to
2618 Subsection (5)(g), 6% of the remaining difference described in Subsection (5)(a) shall be
2619 transferred each year as dedicated credits to the Division of Water Rights to cover the costs
2620 incurred for employing additional technical staff for the administration of water rights.
2621 (g) At the end of each fiscal year, any unexpended dedicated credits described in
2622 Subsection (5)(f) over \$150,000 lapse to the Water Resources Conservation and Development
2623 Fund created in Section 73-10-24.
2624 (6) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
2625 2003, the lesser of the following amounts shall be used as provided in Subsections (6)(b)
2626 through (d):
2627 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:
2628 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and
2629 (B) for the fiscal year; or
2630 (ii) \$18,743,000.
2631 (b) (i) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described
2632 in Subsection (6)(a) shall be deposited each year in the Transportation Corridor Preservation
2633 Revolving Loan Fund created in Section 72-2-117.

2634 (ii) At least 50% of the money deposited in the Transportation Corridor Preservation
2635 Revolving Loan Fund under Subsection (6)(b)(i) shall be used to fund loan applications made by
2636 the Department of Transportation at the request of local governments.

2637 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
2638 Subsection (6)(a) shall be transferred each year as nonlapsing dedicated credits to the
2639 Department of Transportation for the State Park Access Highways Improvement Program
2640 created in Section 72-3-207.

2641 (d) For a fiscal year beginning on or after July 1, 2003, 94% of the amount described in
2642 Subsection (6)(a) shall be deposited in the class B and class C roads account to be expended as
2643 provided in Title 72, Chapter 2, Transportation Finances Act, for the use of class B and C
2644 roads.

2645 (7) (a) Notwithstanding Subsection (3)(a) and until Subsection (7)(b) applies, beginning
2646 on January 1, 2000, the Division of Finance shall deposit into the Centennial Highway Fund
2647 Restricted Account created in Section 72-2-118 a portion of the taxes listed under Subsection
2648 (3)(a) equal to the revenues generated by a 1/64% tax rate on the taxable transactions under
2649 Subsection (1).

2650 (b) Notwithstanding Subsection (3)(a), when the highway general obligation bonds have
2651 been paid off and the highway projects completed that are intended to be paid from revenues
2652 deposited in the Centennial Highway Fund Restricted Account as determined by the Executive
2653 Appropriations Committee under Subsection 72-2-118(6)(d), the Division of Finance shall
2654 deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion
2655 of the taxes listed under Subsection (3)(a) equal to the revenues generated by a 1/64% tax rate
2656 on the taxable transactions under Subsection (1).

2657 (8) (a) Notwithstanding Subsection (3)(a), for fiscal years beginning on or after fiscal
2658 year 2004-05, the commission shall each year on or before the September 30 immediately
2659 following the last day of the fiscal year deposit the difference described in Subsection (8)(b) into
2660 the Remote Sales Restricted Account created in Section 59-12-103.2 if that difference is greater
2661 than \$0.

(b) The difference described in Subsection (8)(a) is equal to the difference between:

(i) the total amount of the revenues under Subsections (2)(b)(ii)(A) and (2)(b)(iii)(A) the commission received from sellers collecting a tax in accordance with Subsection 59-12-107(1)(b) for the fiscal year immediately preceding the September 30 described in Subsection (8)(a); and

(ii) \$7,279,673.

(9) (a) Notwithstanding Subsection (3)(a), in addition to the amount deposited in Subsection (7)(a), and until Subsection (9)(b) applies, for a fiscal year beginning on or after July 1, 2006, the Division of Finance shall deposit into the Centennial Highway Fund Restricted Account created by Section 72-2-118 a portion of the taxes listed under Subsection (3)(a) equal to 8.3% of the revenues collected from the taxes described in Subsections (2)(a)(i), (2)(b)(i)(A), and (2)(b)(iii)(A), which represents a portion of the approximately 17% of sales and use tax revenues generated annually by the sales and use tax on vehicles and vehicle-related products.

(b) Notwithstanding Subsection (3)(a) and in addition to the amounts deposited under Subsection (7)(b), when the highway general obligation bonds have been paid off and the highway projects completed that are intended to be paid from revenues deposited in the Centennial Highway Fund Restricted Account as determined by the Executive Appropriations Committee under Subsection 72-2-118(6)(d), the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to 8.3% of the revenues collected from the taxes described in Subsections (2)(a)(i), (2)(b)(i)(A), and (2)(b)(iii)(A), which represents a portion of the approximately 17% of sales and use tax revenues generated annually by the sales and use tax on vehicles and vehicle-related products.

Section 17. Section **59-12-104** is amended to read:

59-12-104. Exemptions.

The following sales and uses are exempt from the taxes imposed by this chapter:

(1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax under Chapter 13, Motor and Special Fuel Tax Act;

2690 (2) sales to the state, its institutions, and its political subdivisions; however, this
2691 exemption does not apply to sales of:

2692 (a) construction materials except:

2693 (i) construction materials purchased by or on behalf of institutions of the public
2694 education system as defined in Utah Constitution Article X, Section 2, provided the
2695 construction materials are clearly identified and segregated and installed or converted to real
2696 property which is owned by institutions of the public education system; and

2697 (ii) construction materials purchased by the state, its institutions, or its political
2698 subdivisions which are installed or converted to real property by employees of the state, its
2699 institutions, or its political subdivisions; or

2700 (b) tangible personal property in connection with the construction, operation,
2701 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities
2702 providing additional project capacity, as defined in Section 11-13-103;

2703 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

2704 (i) the proceeds of each sale do not exceed \$1; and

2705 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
2706 the cost of the item described in Subsection (3)(b) as goods consumed; and

2707 (b) Subsection (3)(a) applies to:

2708 (i) food and food ingredients; or

2709 (ii) prepared food;

2710 (4) sales of the following to a commercial airline carrier for in-flight consumption:

2711 (a) food and food ingredients;

2712 (b) prepared food; or

2713 (c) services related to Subsection (4)(a) or (b);

2714 (5) sales of parts and equipment for installation in aircraft operated by common carriers
2715 in interstate or foreign commerce;

2716 (6) sales of commercials, motion picture films, prerecorded audio program tapes or
2717 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture

2718 exhibitor, distributor, or commercial television or radio broadcaster;

2719 (7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal
2720 property if the cleaning or washing of the tangible personal property is not assisted cleaning or
2721 washing of tangible personal property;

2722 (b) if a seller that sells at the same business location assisted cleaning or washing of
2723 tangible personal property and cleaning or washing of tangible personal property that is not
2724 assisted cleaning or washing of tangible personal property, the exemption described in
2725 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning or
2726 washing of the tangible personal property; and

2727 (c) for purposes of Subsection (7)(b) and in accordance with Title 63, Chapter 46a,
2728 Utah Administrative Rulemaking Act, the commission may make rules:

2729 (i) governing the circumstances under which sales are at the same business location; and

2730 (ii) establishing the procedures and requirements for a seller to separately account for
2731 sales of assisted cleaning or washing of tangible personal property;

2732 (8) sales made to or by religious or charitable institutions in the conduct of their regular
2733 religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are
2734 fulfilled;

2735 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of
2736 this state if the vehicle is both not:

2737 (a) registered in this state; and

2738 (b) used in this state except as necessary to transport the vehicle to the borders of this
2739 state;

2740 (10) (a) amounts paid for an item described in Subsection (10)(b) if:

2741 (i) the item is intended for human use; and

2742 (ii) (A) a prescription was issued for the item; or

2743 (B) the item was purchased by a hospital or other medical facility; and

2744 (b) (i) Subsection (10)(a) applies to:

2745 (A) a drug;

2746 (B) a syringe; or
2747 (C) a stoma supply; and
2748 (ii) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
2749 commission may by rule define the terms:
2750 (A) "syringe"; or
2751 (B) "stoma supply";
2752 (11) sales or use of property, materials, or services used in the construction of or
2753 incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;
2754 (12) (a) sales of an item described in Subsection (12)(c) served by:
2755 (i) the following if the item described in Subsection (12)(c) is not available to the
2756 general public:
2757 (A) a church; or
2758 (B) a charitable institution;
2759 (ii) an institution of higher education if:
2760 (A) the item described in Subsection (12)(c) is not available to the general public; or
2761 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
2762 offered by the institution of higher education; or
2763 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
2764 (i) a medical facility; or
2765 (ii) a nursing facility; and
2766 (c) Subsections (12)(a) and (b) apply to:
2767 (i) food and food ingredients;
2768 (ii) prepared food; or
2769 (iii) alcoholic beverages;
2770 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
2771 by a person:
2772 (i) regardless of the number of transactions involving the sale of that tangible personal
2773 property by that person; and

2774 (ii) not regularly engaged in the business of selling that type of tangible personal
2775 property;

2776 (b) this Subsection (13) does not apply if:

2777 (i) the sale is one of a series of sales of a character to indicate that the person is
2778 regularly engaged in the business of selling that type of tangible personal property;

2779 (ii) the person holds that person out as regularly engaged in the business of selling that
2780 type of tangible personal property;

2781 (iii) the person sells an item of tangible personal property that the person purchased as a
2782 sale that is exempt under Subsection (25); or

2783 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of
2784 this state in which case the tax is based upon:

2785 (A) the bill of sale or other written evidence of value of the vehicle or vessel being sold;
2786 or

2787 (B) in the absence of a bill of sale or other written evidence of value, the fair market
2788 value of the vehicle or vessel being sold at the time of the sale as determined by the commission;
2789 and

2790 (c) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
2791 commission shall make rules establishing the circumstances under which:

2792 (i) a person is regularly engaged in the business of selling a type of tangible personal
2793 property;

2794 (ii) a sale of tangible personal property is one of a series of sales of a character to
2795 indicate that a person is regularly engaged in the business of selling that type of tangible
2796 personal property; or

2797 (iii) a person holds that person out as regularly engaged in the business of selling a type
2798 of tangible personal property;

2799 (14) (a) except as provided in Subsection (14)(b), amounts paid or charged on or after
2800 July 1, 2006, for a purchase or lease by a manufacturing facility other than a cogeneration
2801 facility, for the following:

2802 (i) machinery and equipment that:

2803 (A) is used:

2804 (I) for a manufacturing facility other than a manufacturing facility that is a scrap

2805 recycler described in Subsection 59-12-102[(45)](46)(b):

2806 (Aa) in the manufacturing process; and

2807 (Bb) to manufacture an item sold as tangible personal property; or

2808 (II) for a manufacturing facility that is a scrap recycler described in Subsection

2809 59-12-102[(45)](46)(b), to process an item sold as tangible personal property; and

2810 (B) has an economic life of three or more years; and

2811 (ii) normal operating repair or replacement parts that:

2812 (A) have an economic life of three or more years; and

2813 (B) are used:

2814 (I) for a manufacturing facility in the state other than a manufacturing facility that is a

2815 scrap recycler described in Subsection 59-12-102[(45)](46)(b), in the manufacturing process; or

2816 (II) for a manufacturing facility in the state that is a scrap recycler described in

2817 Subsection 59-12-102[(45)](46)(b), to process an item sold as tangible personal property;

2818 (b) (i) amounts paid or charged on or after July 1, 2005, for a purchase or lease by a

2819 manufacturing facility that is a cogeneration facility placed in service on or after May 1, 2006,

2820 for the following:

2821 (A) machinery and equipment that:

2822 (I) is used:

2823 (Aa) in the manufacturing process; and

2824 (Bb) to manufacture an item sold as tangible personal property; and

2825 (II) has an economic life of three or more years; and

2826 (B) normal operating repair or replacement parts that:

2827 (I) are used in the manufacturing process in a manufacturing facility in the state; and

2828 (II) have an economic life of three or more years; and

2829 (ii) for amounts paid or charged on or after July 1, 2005, but on or before June 30,

2830 2006, for a purchase or lease described in Subsection (14)(b)(i), a cogeneration facility may
2831 claim the exemption allowed by Subsection (14)(b)(i) by filing for a refund:

2832 (A) for sales and use taxes paid under this chapter on the purchase or lease payment;
2833 and

2834 (B) in accordance with Section 59-12-110;

2835 (c) amounts paid or charged for a purchase or lease made on or after January 1, 2008,
2836 by an establishment described in NAICS Subsector 212, Mining (except Oil and Gas), or
2837 NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for
2838 Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining,
2839 of the 2002 North American Industry Classification System of the federal Executive Office of
2840 the President, Office of Management and Budget:

2841 (i) machinery and equipment that:

2842 (A) are used in:

2843 (I) the production process, other than the production of real property; or

2844 (II) research and development; and

2845 (B) have an economic life of three or more years; and

2846 (ii) normal operating repair or replacement parts that:

2847 (A) have an economic life of three or more years; and

2848 (B) are used in:

2849 (I) the production process, other than the production of real property, in an
2850 establishment described in this Subsection (14)(c) in the state; or

2851 (II) research and development in an establishment described in this Subsection (14)(c)
2852 in the state;

2853 ~~[(c)]~~ (d) for purposes of this Subsection (14) and in accordance with Title 63, Chapter
2854 46a, Utah Administrative Rulemaking Act, the commission:

2855 (i) shall by rule define the term "establishment"; and

2856 (ii) may by rule define what constitutes:

2857 (A) processing an item sold as tangible personal property;

2858 (B) the production process, other than the production of real property; or
2859 (C) research and development; and
2860 ~~[(d)]~~ (e) on or before October 1, ~~[1991]~~ 2011, and every five years after October 1,
2861 ~~[1991]~~ 2011, the commission shall:
2862 (i) review the exemptions described in this Subsection (14) and make recommendations
2863 to the Revenue and Taxation Interim Committee concerning whether the exemptions should be
2864 continued, modified, or repealed; and
2865 (ii) include in its report:
2866 (A) the cost of the exemptions;
2867 (B) the purpose and effectiveness of the exemptions; and
2868 (C) the benefits of the exemptions to the state;
2869 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:
2870 (i) tooling;
2871 (ii) special tooling;
2872 (iii) support equipment;
2873 (iv) special test equipment; or
2874 (v) parts used in the repairs or renovations of tooling or equipment described in
2875 Subsections (15)(a)(i) through (iv); and
2876 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:
2877 (i) the tooling, equipment, or parts are used or consumed exclusively in the performance
2878 of any aerospace or electronics industry contract with the United States government or any
2879 subcontract under that contract; and
2880 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
2881 title to the tooling, equipment, or parts is vested in the United States government as evidenced
2882 by:
2883 (A) a government identification tag placed on the tooling, equipment, or parts; or
2884 (B) listing on a government-approved property record if placing a government
2885 identification tag on the tooling, equipment, or parts is impractical;

2886 (16) sales of newspapers or newspaper subscriptions;

2887 (17) (a) except as provided in Subsection (17)(b), tangible personal property traded in

2888 as full or part payment of the purchase price, except that for purposes of calculating sales or use

2889 tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only, and

2890 the tax is based upon:

2891 (i) the bill of sale or other written evidence of value of the vehicle being sold and the

2892 vehicle being traded in; or

2893 (ii) in the absence of a bill of sale or other written evidence of value, the then existing

2894 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the

2895 commission; and

2896 (b) notwithstanding Subsection (17)(a), Subsection (17)(a) does not apply to the

2897 following items of tangible personal property traded in as full or part payment of the purchase

2898 price:

2899 (i) money;

2900 (ii) electricity;

2901 (iii) water;

2902 (iv) gas; or

2903 (v) steam;

2904 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property

2905 used or consumed primarily and directly in farming operations, regardless of whether the

2906 tangible personal property:

2907 (A) becomes part of real estate; or

2908 (B) is installed by a:

2909 (I) farmer;

2910 (II) contractor; or

2911 (III) subcontractor; or

2912 (ii) sales of parts used in the repairs or renovations of tangible personal property if the

2913 tangible personal property is exempt under Subsection (18)(a)(i); and

2914 (b) notwithstanding Subsection (18)(a), amounts paid or charged for the following
2915 tangible personal property are subject to the taxes imposed by this chapter:

2916 (i) (A) subject to Subsection (18)(b)(i)(B), the following tangible personal property if
2917 the tangible personal property is used in a manner that is incidental to farming:

2918 (I) machinery;
2919 (II) equipment;
2920 (III) materials; or
2921 (IV) supplies; and

2922 (B) tangible personal property that is considered to be used in a manner that is
2923 incidental to farming includes:

2924 (I) hand tools; or
2925 (II) maintenance and janitorial equipment and supplies;

2926 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property if the tangible
2927 personal property is used in an activity other than farming; and

2928 (B) tangible personal property that is considered to be used in an activity other than
2929 farming includes:

2930 (I) office equipment and supplies; or
2931 (II) equipment and supplies used in:
2932 (Aa) the sale or distribution of farm products;
2933 (Bb) research; or
2934 (Cc) transportation; or

2935 (iii) a vehicle required to be registered by the laws of this state during the period ending
2936 two years after the date of the vehicle's purchase;

2937 (19) sales of hay;

2938 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or
2939 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
2940 garden, farm, or other agricultural produce is sold by:

2941 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other

2942 agricultural produce;

2943 (b) an employee of the producer described in Subsection (20)(a); or

2944 (c) a member of the immediate family of the producer described in Subsection (20)(a);

2945 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued

2946 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

2947 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,

2948 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,

2949 wholesaler, or retailer for use in packaging tangible personal property to be sold by that

2950 manufacturer, processor, wholesaler, or retailer;

2951 (23) property stored in the state for resale;

2952 (24) property brought into the state by a nonresident for his or her own personal use or

2953 enjoyment while within the state, except property purchased for use in Utah by a nonresident

2954 living and working in Utah at the time of purchase;

2955 (25) property purchased for resale in this state, in the regular course of business, either

2956 in its original form or as an ingredient or component part of a manufactured or compounded

2957 product;

2958 (26) property upon which a sales or use tax was paid to some other state, or one of its

2959 subdivisions, except that the state shall be paid any difference between the tax paid and the tax

2960 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if

2961 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax

2962 Act;

2963 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a

2964 person for use in compounding a service taxable under the subsections;

2965 (28) purchases made in accordance with the special supplemental nutrition program for

2966 women, infants, and children established in 42 U.S.C. Sec. 1786;

2967 (29) beginning on July 1, 1999, through June 30, 2014, sales or leases of rolls, rollers,

2968 refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens

2969 of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification Manual

2970 of the federal Executive Office of the President, Office of Management and Budget;

2971 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State

2972 Boating Act, a boat trailer, or an outboard motor if the boat, trailer, or outboard motor is both

2973 not:

2974 (a) registered in this state; and

2975 (b) used in this state except as necessary to transport the boat, boat trailer, or outboard

2976 motor to the borders of this state;

2977 (31) sales of aircraft manufactured in Utah if sold for delivery and use outside Utah

2978 where a sales or use tax is not imposed, even if the title is passed in Utah;

2979 (32) amounts paid for the purchase of telephone service for purposes of providing

2980 telephone service;

2981 (33) sales or leases of vehicles to, or use of vehicles by an authorized carrier;

2982 (34) (a) 45% of the sales price of any new manufactured home; and

2983 (b) 100% of the sales price of any used manufactured home;

2984 (35) sales relating to schools and fundraising sales;

2985 (36) sales or rentals of durable medical equipment if:

2986 (a) a person presents a prescription for the durable medical equipment; and

2987 (b) the durable medical equipment is used for home use only;

2988 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in

2989 Section 72-11-102; and

2990 (b) the commission shall by rule determine the method for calculating sales exempt

2991 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;

2992 (38) sales to a ski resort of:

2993 (a) snowmaking equipment;

2994 (b) ski slope grooming equipment;

2995 (c) passenger ropeways as defined in Section 72-11-102; or

2996 (d) parts used in the repairs or renovations of equipment or passenger ropeways

2997 described in Subsections (38)(a) through (c);

2998 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;

2999 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
3000 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
3001 59-12-102;

3002 (b) if a seller that sells or rents at the same business location the right to use or operate
3003 for amusement, entertainment, or recreation one or more unassisted amusement devices and one
3004 or more assisted amusement devices, the exemption described in Subsection (40)(a) applies if
3005 the seller separately accounts for the sales or rentals of the right to use or operate for
3006 amusement, entertainment, or recreation for the assisted amusement devices; and

3007 (c) for purposes of Subsection (40)(b) and in accordance with Title 63, Chapter 46a,
3008 Utah Administrative Rulemaking Act, the commission may make rules:

3009 (i) governing the circumstances under which sales are at the same business location; and

3010 (ii) establishing the procedures and requirements for a seller to separately account for
3011 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for
3012 assisted amusement devices;

3013 (41) sales by the state or a political subdivision of the state, except state institutions of
3014 higher education as defined in Section 53B-3-102, of:

3015 (a) photocopies; or

3016 (b) other copies of records held or maintained by the state or a political subdivision of
3017 the state;

3018 (42) amounts paid for admission to an athletic event at an institution of higher
3019 education that is subject to the provisions of Title IX of the Education Amendments of 1972, 20
3020 U.S.C. Sec. 1681 et seq.;

3021 (43) sales of telephone service charged to a prepaid telephone calling card;

3022 (44) (a) sales of:

3023 (i) hearing aids;

3024 (ii) hearing aid accessories; or

3025 (iii) except as provided in Subsection (44)(b), parts used in the repairs or renovations of

3026 hearing aids or hearing aid accessories; and
3027 (b) for purposes of this Subsection (44), notwithstanding Subsection (44)(a)(iii), "parts"
3028 does not include batteries;
3029 (45) (a) sales made to or by:
3030 (i) an area agency on aging; or
3031 (ii) a senior citizen center owned by a county, city, or town; or
3032 (b) sales made by a senior citizen center that contracts with an area agency on aging;
3033 (46) sales or leases of semiconductor fabricating, processing, research, or development
3034 materials regardless of whether the semiconductor fabricating, processing, research, or
3035 development materials:
3036 (a) actually come into contact with a semiconductor; or
3037 (b) ultimately become incorporated into real property;
3038 (47) an amount paid by or charged to a purchaser for accommodations and services
3039 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section
3040 59-12-104.2;
3041 (48) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary
3042 sports event registration certificate in accordance with Section 41-3-306 for the event period
3043 specified on the temporary sports event registration certificate;
3044 (49) sales or uses of electricity, if the sales or uses are:
3045 (a) made under a tariff adopted by the Public Service Commission of Utah only for
3046 purchase of electricity produced from a new wind, geothermal, biomass, or solar power energy
3047 source, as designated in the tariff by the Public Service Commission of Utah; and
3048 (b) for an amount of electricity that is:
3049 (i) unrelated to the amount of electricity used by the person purchasing the electricity
3050 under the tariff described in Subsection (49)(a); and
3051 (ii) equivalent to the number of kilowatthours specified in the tariff described in
3052 Subsection (49)(a) that may be purchased under the tariff described in Subsection (49)(a);
3053 (50) sales or rentals of mobility enhancing equipment if a person presents a prescription

3054 for the mobility enhancing equipment;

3055 (51) sales of water in a:

3056 (a) pipe;

3057 (b) conduit;

3058 (c) ditch; or

3059 (d) reservoir;

3060 (52) sales of currency or coinage that constitute legal tender of the United States or of a

3061 foreign nation;

3062 (53) (a) sales of an item described in Subsection (53)(b) if the item:

3063 (i) does not constitute legal tender of any nation; and

3064 (ii) has a gold, silver, or platinum content of 80% or more; and

3065 (b) Subsection (53)(a) applies to a gold, silver, or platinum:

3066 (i) ingot;

3067 (ii) bar;

3068 (iii) medallion; or

3069 (iv) decorative coin;

3070 (54) amounts paid on a sale-leaseback transaction;

3071 (55) sales of a prosthetic device:

3072 (a) for use on or in a human;

3073 (b) for which a prescription is issued; and

3074 (c) to a person that presents a prescription for the prosthetic device;

3075 (56) (a) except as provided in Subsection (56)(b), purchases, leases, or rentals of

3076 machinery or equipment by an establishment described in Subsection (56)(c) if the machinery or

3077 equipment is primarily used in the production or postproduction of the following media for

3078 commercial distribution:

3079 (i) a motion picture;

3080 (ii) a television program;

3081 (iii) a movie made for television;

3082 (iv) a music video;
3083 (v) a commercial;
3084 (vi) a documentary; or
3085 (vii) a medium similar to Subsections (56)(a)(i) through (vi) as determined by the
3086 commission by administrative rule made in accordance with Subsection (56)(d); or
3087 (b) notwithstanding Subsection (56)(a), purchases, leases, or rentals of machinery or
3088 equipment by an establishment described in Subsection (56)(c) that is used for the production or
3089 postproduction of the following are subject to the taxes imposed by this chapter:
3090 (i) a live musical performance;
3091 (ii) a live news program; or
3092 (iii) a live sporting event;
3093 (c) the following establishments listed in the 1997 North American Industry
3094 Classification System of the federal Executive Office of the President, Office of Management
3095 and Budget, apply to Subsections (56)(a) and (b):
3096 (i) NAICS Code 512110; or
3097 (ii) NAICS Code 51219; and
3098 (d) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
3099 commission may by rule:
3100 (i) prescribe what constitutes a medium similar to Subsections (56)(a)(i) through (vi);
3101 or
3102 (ii) define:
3103 (A) "commercial distribution";
3104 (B) "live musical performance";
3105 (C) "live news program"; or
3106 (D) "live sporting event";
3107 (57) (a) leases of seven or more years or purchases made on or after July 1, 2004 but
3108 on or before June 30, 2009, of machinery or equipment that:
3109 (i) is leased or purchased for or by a facility that:

3110 (A) is a renewable energy production facility;
3111 (B) is located in the state; and
3112 (C) (I) becomes operational on or after July 1, 2004; or
3113 (II) has its generation capacity increased by one or more megawatts on or after July 1,
3114 2004 as a result of the use of the machinery or equipment;
3115 (ii) has an economic life of five or more years; and
3116 (iii) is used to make the facility or the increase in capacity of the facility described in
3117 Subsection (57)(a)(i) operational up to the point of interconnection with an existing
3118 transmission grid including:
3119 (A) a wind turbine;
3120 (B) generating equipment;
3121 (C) a control and monitoring system;
3122 (D) a power line;
3123 (E) substation equipment;
3124 (F) lighting;
3125 (G) fencing;
3126 (H) pipes; or
3127 (I) other equipment used for locating a power line or pole; and
3128 (b) this Subsection (57) does not apply to:
3129 (i) machinery or equipment used in construction of:
3130 (A) a new renewable energy production facility; or
3131 (B) the increase in the capacity of a renewable energy production facility;
3132 (ii) contracted services required for construction and routine maintenance activities; and
3133 (iii) unless the machinery or equipment is used or acquired for an increase in capacity of
3134 the facility described in Subsection (57)(a)(i)(C)(II), machinery or equipment used or acquired
3135 after:
3136 (A) the renewable energy production facility described in Subsection (57)(a)(i) is
3137 operational as described in Subsection (57)(a)(iii); or

3138 (B) the increased capacity described in Subsection (57)(a)(i) is operational as described
3139 in Subsection (57)(a)(iii);

3140 (58) (a) leases of seven or more years or purchases made on or after July 1, 2004 but
3141 on or before June 30, 2009, of machinery or equipment that:

3142 (i) is leased or purchased for or by a facility that:

3143 (A) is a waste energy production facility;

3144 (B) is located in the state; and

3145 (C) (I) becomes operational on or after July 1, 2004; or

3146 (II) has its generation capacity increased by one or more megawatts on or after July 1,
3147 2004 as a result of the use of the machinery or equipment;

3148 (ii) has an economic life of five or more years; and

3149 (iii) is used to make the facility or the increase in capacity of the facility described in
3150 Subsection (58)(a)(i) operational up to the point of interconnection with an existing
3151 transmission grid including:

3152 (A) generating equipment;

3153 (B) a control and monitoring system;

3154 (C) a power line;

3155 (D) substation equipment;

3156 (E) lighting;

3157 (F) fencing;

3158 (G) pipes; or

3159 (H) other equipment used for locating a power line or pole; and

3160 (b) this Subsection (58) does not apply to:

3161 (i) machinery or equipment used in construction of:

3162 (A) a new waste energy facility; or

3163 (B) the increase in the capacity of a waste energy facility;

3164 (ii) contracted services required for construction and routine maintenance activities; and

3165 (iii) unless the machinery or equipment is used or acquired for an increase in capacity

3166 described in Subsection (58)(a)(i)(C)(II), machinery or equipment used or acquired after:

3167 (A) the waste energy facility described in Subsection (58)(a)(i) is operational as
3168 described in Subsection (58)(a)(iii); or

3169 (B) the increased capacity described in Subsection (58)(a)(i) is operational as described
3170 in Subsection (58)(a)(iii);

3171 (59) (a) leases of five or more years or purchases made on or after July 1, 2004 but on
3172 or before June 30, 2009, of machinery or equipment that:

3173 (i) is leased or purchased for or by a facility that:

3174 (A) is located in the state;

3175 (B) produces fuel from biomass energy including:

3176 (I) methanol; or

3177 (II) ethanol; and

3178 (C) (I) becomes operational on or after July 1, 2004; or

3179 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004 as
3180 a result of the installation of the machinery or equipment;

3181 (ii) has an economic life of five or more years; and

3182 (iii) is installed on the facility described in Subsection (59)(a)(i);

3183 (b) this Subsection (59) does not apply to:

3184 (i) machinery or equipment used in construction of:

3185 (A) a new facility described in Subsection (59)(a)(i); or

3186 (B) the increase in capacity of the facility described in Subsection (59)(a)(i); or

3187 (ii) contracted services required for construction and routine maintenance activities; and

3188 (iii) unless the machinery or equipment is used or acquired for an increase in capacity

3189 described in Subsection (59)(a)(i)(C)(II), machinery or equipment used or acquired after:

3190 (A) the facility described in Subsection (59)(a)(i) is operational; or

3191 (B) the increased capacity described in Subsection (59)(a)(i) is operational;

3192 (60) amounts paid to a purchaser as a rebate from the manufacturer of a new vehicle for
3193 purchasing the new vehicle;

3194 (61) (a) subject to Subsection (61)(b), sales of tangible personal property to persons
3195 within this state that is subsequently shipped outside the state and incorporated pursuant to
3196 contract into and becomes a part of real property located outside of this state, except to the
3197 extent that the other state or political entity imposes a sales, use, gross receipts, or other similar
3198 transaction excise tax on it against which the other state or political entity allows a credit for
3199 taxes imposed by this chapter; and

3200 (b) the exemption provided for in Subsection (61)(a):

3201 (i) is allowed only if the exemption is applied:

3202 (A) in calculating the purchase price of the tangible personal property; and

3203 (B) to a written contract that is in effect on July 1, 2004; and

3204 (ii) (A) does not apply beginning on the day on which the contract described in
3205 Subsection (61)(b)(i):

3206 (I) is substantially modified; or

3207 (II) terminates; and

3208 (B) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
3209 commission may by rule prescribe the circumstances under which a contract is substantially
3210 modified;

3211 (62) purchases:

3212 (a) of one or more of the following items in printed or electronic format:

3213 (i) a list containing information that includes one or more:

3214 (A) names; or

3215 (B) addresses; or

3216 (ii) a database containing information that includes one or more:

3217 (A) names; or

3218 (B) addresses; and

3219 (b) used to send direct mail;

3220 (63) redemptions or repurchases of property by a person if that property was:

3221 (a) delivered to a pawnbroker as part of a pawn transaction; and

(b) redeemed or repurchased within the time period established in a written agreement between the person and the pawnbroker for redeeming or repurchasing the property;

(64) (a) purchases or leases of an item described in Subsection (64)(b) if the item:

(i) is purchased or leased by, or on behalf of, a telephone service provider; and

(ii) has a useful economic life of one or more years; and

(b) the following apply to Subsection (64)(a):

(i) telecommunications enabling or facilitating equipment, machinery, or software;

(ii) telecommunications equipment, machinery, or software required for 911 service;

(iii) telecommunications maintenance or repair equipment, machinery, or software;

(iv) telecommunications switching or routing equipment, machinery, or software; or

(v) telecommunications transmission equipment, machinery, or software; and

(65) (a) beginning on July 1, 2006 and ending on June 30, 2016, purchases of tangible personal property used in the research and development of coal-to-liquids, oil shale, or tar sands technology; and

(b) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may, for purposes of Subsection (65)(a), make rules defining what constitutes tangible personal property used in the research and development of coal-to-liquids, oil shale, and tar sands technology.

Section 18. Section **59-12-401** is amended to read:

59-12-401. Resort communities tax -- Base -- Rate -- Collection fees.

(1) (a) In addition to other sales and use taxes, a city or town in which the transient room capacity as defined in Section 59-12-405 is greater than or equal to 66% of the municipality's permanent census population may impose a sales and use tax of up to [~~1%~~] 1.1% on the transactions described in Subsection 59-12-103(1) located within the city or town.

(b) Notwithstanding Subsection (1)(a), a city or town may not impose a tax under this section on:

(i) the sale of:

(A) a motor vehicle;

3250 (B) an aircraft;
3251 (C) a watercraft;
3252 (D) a modular home;
3253 (E) a manufactured home; or
3254 (F) a mobile home;
3255 (ii) the sales and uses described in Section 59-12-104 to the extent the sales and uses
3256 are exempt from taxation under Section 59-12-104; ~~[and]~~
3257 (iii) ~~[any]~~ amounts paid or charged by a seller that collects a tax under Subsection
3258 59-12-107(1)(b)~~[-]~~; and
3259 (iv) except as provided in Subsection (1)(d), amounts paid or charged for food and food
3260 ingredients.
3261 (c) For purposes of this Subsection (1), the location of a transaction shall be determined
3262 in accordance with Section 59-12-207.
3263 (d) A city or town imposing a tax under this section shall impose the tax on amounts
3264 paid or charged for food and food ingredients if:
3265 (i) the food and food ingredients are sold as part of a bundled transaction attributable to
3266 food and food ingredients and tangible personal property other than food and food ingredients;
3267 and
3268 (ii) the seller collecting the tax is a seller other than a seller that collects a tax in
3269 accordance with Subsection 59-12-107(1)(b).
3270 (2) (a) An amount equal to the total of any costs incurred by the state in connection
3271 with the implementation of Subsection (1) which exceed, in any year, the revenues received by
3272 the state from its collection fees received in connection with the implementation of Subsection
3273 (1) shall be paid over to the state General Fund by the cities and towns which impose the tax
3274 provided for in Subsection (1).
3275 (b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among those
3276 cities and towns according to the amount of revenue the respective cities and towns generate in
3277 that year through imposition of that tax.

3278 Section 19. Section **59-12-402** is amended to read:

3279 **59-12-402. Additional resort communities sales and use tax -- Base -- Rate --**
3280 **Collection fees -- Resolution and voter approval requirements -- Election requirements --**
3281 **Notice requirements -- Ordinance requirements.**

3282 (1) (a) Subject to Subsections (2) through (6), the governing body of a municipality in
3283 which the transient room capacity as defined in Section 59-12-405 is greater than or equal to
3284 66% of the municipality's permanent census population may, in addition to the sales tax
3285 authorized under Section 59-12-401, impose an additional resort communities sales tax in an
3286 amount that is less than or equal to .5% on the transactions described in Subsection
3287 59-12-103(1) located within the municipality.

3288 (b) Notwithstanding Subsection (1)(a), the governing body of a municipality may not
3289 impose a tax under this section on:

3290 (i) the sale of:

3291 (A) a motor vehicle;

3292 (B) an aircraft;

3293 (C) a watercraft;

3294 (D) a modular home;

3295 (E) a manufactured home; or

3296 (F) a mobile home;

3297 (ii) the sales and uses described in Section 59-12-104 to the extent the sales and uses
3298 are exempt from taxation under Section 59-12-104; ~~and~~

3299 (iii) ~~any~~ amounts paid or charged by a seller that collects a tax under Subsection
3300 59-12-107(1)(b)~~[-]; and~~

3301 (iv) except as provided in Subsection (1)(d), amounts paid or charged for food and food
3302 ingredients.

3303 (c) For purposes of this Subsection (1), the location of a transaction shall be determined
3304 in accordance with Section 59-12-207.

3305 (d) A municipality imposing a tax under this section shall impose the tax on amounts

3306 paid or charged for food and food ingredients if:

3307 (i) the food and food ingredients are sold as part of a bundled transaction attributable to
3308 food and food ingredients and tangible personal property other than food and food ingredients;

3309 and

3310 (ii) the seller collecting the tax is a seller other than a seller that collects a tax in
3311 accordance with Subsection 59-12-107(1)(b).

3312 (2) (a) An amount equal to the total of any costs incurred by the state in connection
3313 with the implementation of Subsection (1) which exceed, in any year, the revenues received by
3314 the state from its collection fees received in connection with the implementation of Subsection
3315 (1) shall be paid over to the state General Fund by the cities and towns which impose the tax
3316 provided for in Subsection (1).

3317 (b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among those
3318 cities and towns according to the amount of revenue the respective cities and towns generate in
3319 that year through imposition of that tax.

3320 (3) To impose an additional resort communities sales tax under this section, the
3321 governing body of the municipality shall:

3322 (a) pass a resolution approving the tax; and

3323 (b) except as provided in Subsection (6), obtain voter approval for the tax as provided
3324 in Subsection (4).

3325 (4) To obtain voter approval for an additional resort communities sales tax under
3326 Subsection (3)(b), a municipality shall:

3327 (a) hold the additional resort communities sales tax election during:

3328 (i) a regular general election; or

3329 (ii) a municipal general election; and

3330 (b) publish notice of the election:

3331 (i) 15 days or more before the day on which the election is held; and

3332 (ii) in a newspaper of general circulation in the municipality.

3333 (5) An ordinance approving an additional resort communities sales tax under this

section shall provide an effective date for the tax as provided in Section 59-12-403.

(6) (a) Except as provided in Subsection (6)(b), a municipality is not subject to the voter approval requirements of Subsection (3)(b) if, on or before January 1, 1996, the municipality imposed a license fee or tax on businesses based on gross receipts pursuant to Section 10-1-203.

(b) The exception from the voter approval requirements in Subsection (6)(a) does not apply to a municipality that, on or before January 1, 1996, imposed a license fee or tax on only one class of businesses based on gross receipts pursuant to Section 10-1-203.

Section 20. Section **59-12-403** is amended to read:

59-12-403. Enactment or repeal of tax -- Tax rate change -- Effective date -- Notice requirements -- Administration, collection, and enforcement of tax.

(1) For purposes of this section:

(a) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part 4, Annexation.

(b) "Annexing area" means an area that is annexed into a city or town.

(2) (a) Except as provided in Subsection (2)(c) or (d), if, on or after ~~July~~ April 1, ~~2004~~ 2008, a city or town enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

(i) on the first day of a calendar quarter; and

(ii) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (2)(b) from the city or town.

(b) The notice described in Subsection (2)(a)(ii) shall state:

(i) that the city or town will enact or repeal a tax or change the rate of a tax under this part;

(ii) the statutory authority for the tax described in Subsection (2)(b)(i);

(iii) the effective date of the tax described in Subsection (2)(b)(i); and

(iv) if the city or town enacts the tax or changes the rate of the tax described in Subsection (2)(b)(i), the rate of the tax.

3362 (c) (i) Notwithstanding Subsection (2)(a), for a transaction described in Subsection
3363 (2)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
3364 first billing period:

3365 (A) that begins after the effective date of the enactment of the tax or the tax rate
3366 increase; and

3367 (B) if the billing period for the transaction begins before the effective date of the
3368 enactment of the tax or the tax rate increase imposed under:

3369 (I) Section 59-12-401; or

3370 (II) Section 59-12-402.

3371 (ii) Notwithstanding Subsection (2)(a), for a transaction described in Subsection
3372 (2)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last
3373 billing period:

3374 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
3375 and

3376 (B) if the billing period for the transaction begins before the effective date of the repeal
3377 of the tax or the tax rate decrease imposed under:

3378 (I) Section 59-12-401; or

3379 (II) Section 59-12-402.

3380 (iii) Subsections (2)(c)(i) and (ii) apply to transactions subject to a tax under:

3381 (A) Subsection 59-12-103(1)(b);

3382 (B) Subsection 59-12-103(1)(c);

3383 (C) Subsection 59-12-103(1)(d);

3384 (D) Subsection 59-12-103(1)(e);

3385 (E) Subsection 59-12-103(1)(f);

3386 (F) Subsection 59-12-103(1)(g);

3387 (G) Subsection 59-12-103(1)(h);

3388 (H) Subsection 59-12-103(1)(i);

3389 (I) Subsection 59-12-103(1)(j); or

3390 (J) Subsection 59-12-103(1)(k).

3391 (d) (i) Notwithstanding Subsection (2)(a), if a tax due under this chapter on a catalogue
3392 sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment,
3393 repeal, or change in the rate of a tax described in Subsection (2)(a) takes effect:

3394 (A) on the first day of a calendar quarter; and

3395 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
3396 rate of the tax under Subsection (2)(a).

3397 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
3398 commission may by rule define the term "catalogue sale."

3399 (3) (a) Except as provided in Subsection (3)(c) or (d), if, for an annexation that occurs
3400 on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate
3401 of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

3402 (i) on the first day of a calendar quarter; and

3403 (ii) after a 90-day period beginning on the date the commission receives notice meeting
3404 the requirements of Subsection (3)(b) from the city or town that annexes the annexing area.

3405 (b) The notice described in Subsection (3)(a)(ii) shall state:

3406 (i) that the annexation described in Subsection (3)(a) will result in an enactment, repeal,
3407 or change in the rate of a tax under this part for the annexing area;

3408 (ii) the statutory authority for the tax described in Subsection (3)(b)(i);

3409 (iii) the effective date of the tax described in Subsection (3)(b)(i); and

3410 (iv) if the city or town enacts the tax or changes the rate of the tax described in
3411 Subsection (3)(b)(i), the rate of the tax.

3412 (c) (i) Notwithstanding Subsection (3)(a), for a transaction described in Subsection
3413 (3)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
3414 first billing period:

3415 (A) that begins after the effective date of the enactment of the tax or the tax rate
3416 increase; and

3417 (B) if the billing period for the transaction begins before the effective date of the

3418 enactment of the tax or the tax rate increase imposed under:

3419 (I) Section 59-12-401; or

3420 (II) Section 59-12-402.

3421 (ii) Notwithstanding Subsection (3)(a), for a transaction described in Subsection

3422 (3)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last

3423 billing period:

3424 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;

3425 and

3426 (B) if the billing period for the transaction begins before the effective date of the repeal

3427 of the tax or the tax rate decrease imposed under:

3428 (I) Section 59-12-401; or

3429 (II) Section 59-12-402.

3430 (iii) Subsections (3)(c)(i) and (ii) apply to transactions subject to a tax under:

3431 (A) Subsection 59-12-103(1)(b);

3432 (B) Subsection 59-12-103(1)(c);

3433 (C) Subsection 59-12-103(1)(d);

3434 (D) Subsection 59-12-103(1)(e);

3435 (E) Subsection 59-12-103(1)(f);

3436 (F) Subsection 59-12-103(1)(g);

3437 (G) Subsection 59-12-103(1)(h);

3438 (H) Subsection 59-12-103(1)(i);

3439 (I) Subsection 59-12-103(1)(j); or

3440 (J) Subsection 59-12-103(1)(k).

3441 (d) (i) Notwithstanding Subsection (3)(a), if a tax due under this chapter on a catalogue

3442 sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment,

3443 repeal, or change in the rate of a tax described in Subsection (3)(a) takes effect:

3444 (A) on the first day of a calendar quarter; and

3445 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the

3446 rate of the tax under Subsection (3)(a).

3447 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
3448 commission may by rule define the term "catalogue sale."

3449 (4) (a) Except as provided in Subsection (4)(b), a tax authorized under this part shall be
3450 administered, collected, and enforced in accordance with:

3451 (i) the same procedures used to administer, collect, and enforce the tax under:

3452 (A) Part 1, Tax Collection; or

3453 (B) Part 2, Local Sales and Use Tax Act; and

3454 (ii) Chapter 1, General Taxation Policies.

3455 (b) Notwithstanding Subsection (4)(a), a tax under this part is not subject to
3456 Subsections 59-12-205(2) through (7).

3457 Section 21. Section **59-12-501** is amended to read:

3458 **59-12-501. Public transit tax -- Base -- Rate -- Voter approval.**

3459 (1) (a) (i) In addition to other sales and use taxes, any county, city, or town within a
3460 transit district organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act,
3461 may impose a sales and use tax of up to:

3462 (A) beginning on January 1, 1988, and ending on December 31, 2007, .25% on the
3463 transactions described in Subsection 59-12-103(1) located within the county, city, or town, to
3464 fund a public transportation system; or

3465 (B) beginning on January 1, 2008, if within the boundaries of the county, city, or town a
3466 tax is not imposed under Part 15, County Option Sales and Use Tax for Highways, Fixed
3467 Guideways, or Systems for Public Transit Act, .30% on the transactions described in Subsection
3468 59-12-103(1) located within the county, city, or town, to fund a public transportation system.

3469 (ii) Notwithstanding Subsection (1)(a)(i), a county, city, or town may not impose a tax
3470 under this section on:

3471 (A) the sales and uses described in Section 59-12-104 to the extent the sales and uses
3472 are exempt from taxation under Section 59-12-104; ~~and~~

3473 (B) ~~any~~ amounts paid or charged by a seller that collects a tax under Subsection

3474 59-12-107(1)(b)~~[-]; and~~

3475 (C) except as provided in Subsection (1)(c), amounts paid or charged for food and food
3476 ingredients.

3477 (b) For purposes of this Subsection (1), the location of a transaction shall be determined
3478 in accordance with Section 59-12-207.

3479 (c) A county, city, or town imposing a tax under this section shall impose the tax on
3480 amounts paid or charged for food and food ingredients if:

3481 (i) the food and food ingredients are sold as part of a bundled transaction attributable to
3482 food and food ingredients and tangible personal property other than food and food ingredients;
3483 and

3484 (ii) the seller collecting the tax is a seller other than a seller that collects a tax in
3485 accordance with Subsection 59-12-107(1)(b).

3486 ~~[(c)]~~ (d) (i) ~~[A]~~ Except as provided in Subsection (3) or (4), a county, city, or town
3487 may impose a tax under this section only if the governing body of the county, city, or town, by
3488 resolution, submits the proposal to all the qualified voters within the county, city, or town for
3489 approval at a general or special election conducted in the manner provided by statute.

3490 (ii) An election under Subsection 17B-2-512(3)(a)(ii) approving the annexation of an
3491 area to a public transit district or local district and approving for that annexed area the sales and
3492 use tax authorized by this section satisfies the election requirement of Subsection (1)~~[(c)]~~ (d)(i)
3493 for the area to be annexed to the public transit district or local district.

3494 (2) (a) If only a portion of a county is included within a public transit district, the
3495 proposal may be submitted only to the qualified voters residing within the boundaries of the
3496 proposed or existing public transit district.

3497 (b) Notice of any such election shall be given by the county, city, or town governing
3498 body 15 days in advance in the manner prescribed by statute.

3499 (c) If a majority of the voters voting in such election approve the proposal, it shall
3500 become effective on the date provided by the county, city, or town governing body.

3501 (3) This section may not be construed to require an election in jurisdictions where

3502 voters have previously approved a public transit sales or use tax.

3503 (4) A county, city, or town is not subject to the voter approval requirements of this
3504 section if:

3505 (a) on December 31, 2007, the county, city, or town imposes a tax of .25% under this
3506 section; and

3507 (b) on or after January 1, 2008, subject to Subsection (1)(a)(i)(B), the county, city, or
3508 town increases the tax rate under this section to up to .30%.

3509 Section 22. Section **59-12-502** is amended to read:

3510 **59-12-502. Additional public transit tax for expanded system and fixed guideway**
3511 **and interstate improvements -- Base -- Rate -- Voter approval.**

3512 (1) (a) (i) In addition to other sales and use taxes, including the public transit district tax
3513 authorized by Section 59-12-501, a county, city, or town within a transit district organized
3514 under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act, may impose a sales and
3515 use tax of .25% on the transactions described in Subsection 59-12-103(1) located within the
3516 county, city, or town, to fund a fixed guideway and expanded public transportation system.

3517 (ii) Notwithstanding Subsection (1)(a)(i), a county, city, or town may not impose a tax
3518 under this section on:

3519 (A) the sales and uses described in Section 59-12-104 to the extent the sales and uses
3520 are exempt from taxation under Section 59-12-104; ~~and~~

3521 (B) ~~any~~ amounts paid or charged by a seller that collects a tax under Subsection
3522 59-12-107(1)(b)~~[-]~~; and

3523 (C) except as provided in Subsection (1)(c), amounts paid or charged for food and food
3524 ingredients.

3525 (b) For purposes of this Subsection (1), the location of a transaction shall be determined
3526 in accordance with Section 59-12-207.

3527 (c) A county, city, or town imposing a tax under this section shall impose the tax on
3528 amounts paid or charged for food and food ingredients if:

3529 (i) the food and food ingredients are sold as part of a bundled transaction attributable to

3530 food and food ingredients and tangible personal property other than food and food ingredients;
3531 and

3532 (ii) the seller collecting the tax is a seller other than a seller that collects a tax in
3533 accordance with Subsection 59-12-107(1)(b).

3534 ~~[(c)]~~ (d) (i) A county, city, or town may impose the tax under this section only if the
3535 governing body of the county, city, or town submits, by resolution, the proposal to all the
3536 qualified voters within the county, city, or town for approval at a general or special election
3537 conducted in the manner provided by statute.

3538 (ii) Notice of the election under Subsection (1)~~[(c)]~~(d)(i) shall be given by the county,
3539 city, or town governing body 15 days in advance in the manner prescribed by statute.

3540 (2) If the majority of the voters voting in this election approve the proposal, it shall
3541 become effective on the date provided by the county, city, or town governing body.

3542 (3) (a) This section may not be construed to require an election in jurisdictions where
3543 voters have previously approved a public transit sales or use tax.

3544 (b) This section shall be construed to require an election to impose the sales and use tax
3545 authorized by this section, including jurisdictions where the voters have previously approved the
3546 sales and use tax authorized by Section 59-12-501, but this section may not be construed to
3547 affect the sales and use tax authorized by Section 59-12-501.

3548 (4) No public funds shall be spent to promote the required election.

3549 (5) (a) Notwithstanding the designated use of revenues in Subsection (1), of the
3550 revenues generated by the tax imposed under this section by any county of the first class:

3551 (i) 75% shall be allocated to fund a fixed guideway and expanded public transportation
3552 system; and

3553 (ii) except as provided in Subsection (5)(b), 25% shall be allocated to fund new
3554 construction, major renovations, and improvements to Interstate 15 and state highways within
3555 the county and to pay any debt service and bond issuance costs related to those projects.

3556 (b) Notwithstanding the designated use of revenues in Subsection (1), beginning on July
3557 1, 2006, and ending on July 1, 2007, a county of the first class may expend an amount not to

3558 exceed \$3,500,000 of the revenues described in Subsection (5)(a)(ii) for expenses relating to
3559 reconfiguring railroad curves within that county to reduce rail congestion.

3560 (6) A county of the first class may, through an interlocal agreement, authorize the
3561 deposit or transfer of the portion of the revenues described in Subsection (5)(a)(ii) to the Public
3562 Transportation System Tax Highway Fund created in Section 72-2-121.

3563 Section 23. Section **59-12-504** is amended to read:

3564 **59-12-504. Enactment or repeal of tax -- Effective date -- Notice requirements --**
3565 **Administration, collection, and enforcement of tax.**

3566 (1) For purposes of this section:

3567 (a) "Annexation" means an annexation to:

3568 (i) a county under Title 17, Chapter 2, Annexation to County; or

3569 (ii) a city or town under Title 10, Chapter 2, Part 4, Annexation.

3570 (b) "Annexing area" means an area that is annexed into a county, city, or town.

3571 (2) (a) Except as provided in Subsection (2)(c) or (d), if, on or after ~~[July]~~ April 1,
3572 ~~[2004]~~ 2008, a county, city, or town enacts or repeals a tax under this part, the enactment or
3573 repeal shall take effect:

3574 (i) on the first day of a calendar quarter; and

3575 (ii) after a 90-day period beginning on the date the commission receives notice meeting
3576 the requirements of Subsection (2)(b) from the county, city, or town.

3577 (b) The notice described in Subsection (2)(a)(ii) shall state:

3578 (i) that the county, city, or town will enact or repeal a tax under this part;

3579 (ii) the statutory authority for the tax described in Subsection (2)(b)(i);

3580 (iii) the effective date of the tax described in Subsection (2)(b)(i); and

3581 (iv) if the county, city, or town enacts the tax described in Subsection (2)(b)(i), the rate
3582 of the tax.

3583 (c) (i) Notwithstanding Subsection (2)(a), for a transaction described in Subsection
3584 (2)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

3585 (A) that begins after the effective date of the enactment of the tax; and

3586 (B) if the billing period for the transaction begins before the effective date of the
3587 enactment of the tax under:

3588 (I) Section 59-12-501; or
3589 (II) Section 59-12-502.

3590 (ii) Notwithstanding Subsection (2)(a), for a transaction described in Subsection
3591 (2)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

3592 (A) that began before the effective date of the repeal of the tax; and
3593 (B) if the billing period for the transaction begins before the effective date of the repeal
3594 of the tax imposed under:

3595 (I) Section 59-12-501; or
3596 (II) Section 59-12-502.

3597 (iii) Subsections (2)(c)(i) and (ii) apply to transactions subject to a tax under:

3598 (A) Subsection 59-12-103(1)(b);
3599 (B) Subsection 59-12-103(1)(c);
3600 (C) Subsection 59-12-103(1)(d);
3601 (D) Subsection 59-12-103(1)(e);
3602 (E) Subsection 59-12-103(1)(f);
3603 (F) Subsection 59-12-103(1)(g);
3604 (G) Subsection 59-12-103(1)(h);
3605 (H) Subsection 59-12-103(1)(i);
3606 (I) Subsection 59-12-103(1)(j); or
3607 (J) Subsection 59-12-103(1)(k).

3608 (d) (i) Notwithstanding Subsection (2)(a), if a tax due under this chapter on a catalogue
3609 sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment
3610 or repeal of a tax described in Subsection (2)(a) takes effect:

3611 (A) on the first day of a calendar quarter; and
3612 (B) beginning 60 days after the effective date of the enactment or repeal under
3613 Subsection (2)(a).

(ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(3) (a) Except as provided in Subsection (3)(c) or (d), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this part for an annexing area, the enactment or repeal shall take effect:

(i) on the first day of a calendar quarter; and

(ii) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (3)(b) from the county, city, or town that annexes the annexing area.

(b) The notice described in Subsection (3)(a)(ii) shall state:

(i) that the annexation described in Subsection (3)(a) will result in an enactment or repeal of a tax under this part for the annexing area;

(ii) the statutory authority for the tax described in Subsection (3)(b)(i);

(iii) the effective date of the tax described in Subsection (3)(b)(i); and

(iv) the rate of the tax described in Subsection (3)(b)(i).

(c) (i) Notwithstanding Subsection (3)(a), for a transaction described in Subsection (3)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the enactment of the tax; and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax under:

(I) Section 59-12-501; or

(II) Section 59-12-502.

(ii) Notwithstanding Subsection (3)(a), for a transaction described in Subsection (3)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax; and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax imposed under:

(I) Section 59-12-501; or

3642 (II) Section 59-12-502.

3643 (iii) Subsections (3)(c)(i) and (ii) apply to transactions subject to a tax under:

3644 (A) Subsection 59-12-103(1)(b);

3645 (B) Subsection 59-12-103(1)(c);

3646 (C) Subsection 59-12-103(1)(d);

3647 (D) Subsection 59-12-103(1)(e);

3648 (E) Subsection 59-12-103(1)(f);

3649 (F) Subsection 59-12-103(1)(g);

3650 (G) Subsection 59-12-103(1)(h);

3651 (H) Subsection 59-12-103(1)(i);

3652 (I) Subsection 59-12-103(1)(j); or

3653 (J) Subsection 59-12-103(1)(k).

3654 (d) (i) Notwithstanding Subsection (3)(a), if a tax due under this chapter on a catalogue

3655 sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment

3656 or repeal of a tax described in Subsection (3)(a) takes effect:

3657 (A) on the first day of a calendar quarter; and

3658 (B) beginning 60 days after the effective date of the enactment or repeal under

3659 Subsection (3)(a).

3660 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

3661 commission may by rule define the term "catalogue sale."

3662 (4) (a) Except as provided in Subsection (4)(b), a tax authorized under this part shall be

3663 administered, collected, and enforced in accordance with:

3664 (i) the same procedures used to administer, collect, and enforce the tax under:

3665 (A) Part 1, Tax Collection; or

3666 (B) Part 2, Local Sales and Use Tax Act; and

3667 (ii) Chapter 1, General Taxation Policies.

3668 (b) Notwithstanding Subsection (4)(a), a tax under this part is not subject to

3669 Subsections 59-12-205(2) through (7).

Section 24. Section **59-12-703** is amended to read:

59-12-703. Opinion question election -- Base -- Rate -- Imposition of tax -- Uses of tax monies -- Enactment or repeal of tax -- Effective date -- Notice requirements.

(1) (a) (i) A county legislative body may submit an opinion question to the residents of that county, by majority vote of all members of the legislative body, so that each resident of the county, except residents in municipalities that have already imposed a sales and use tax under Part 14, City or Town Option Funding For Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, has an opportunity to express the resident's opinion on the imposition of a local sales and use tax of .1% on the transactions described in Subsection 59-12-103(1) located within the county, to fund recreational and zoological facilities, botanical, cultural, and zoological organizations, and rural radio stations, in that county.

(ii) Notwithstanding Subsection (1)(a)(i), a county legislative body may not impose a tax under this section on:

(A) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104;

(B) sales and uses within municipalities that have already imposed a sales and use tax under Part 14, City or Town Option Funding For Botanical, Cultural, Recreational, and Zoological Organizations or Facilities; ~~and~~

(C) ~~any~~ amounts paid or charged by a seller that collects a tax under Subsection 59-12-107(1)(b)~~[-]; and~~

(D) except as provided in Subsection (1)(c), amounts paid or charged for food and food ingredients.

(b) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Section 59-12-207.

(c) A county legislative body imposing a tax under this section shall impose the tax on amounts paid or charged for food and food ingredients if:

(i) the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients;

3698 and

3699 (ii) the seller collecting the tax is a seller other than a seller that collects a tax in
3700 accordance with Subsection 59-12-107(1)(b).

3701 [~~(c)~~] (d) The election shall follow the procedures outlined in Title 11, Chapter 14, Local
3702 Government Bonding Act.

3703 (2) (a) If the county legislative body determines that a majority of the county's
3704 registered voters voting on the imposition of the tax have voted in favor of the imposition of the
3705 tax as prescribed in Subsection (1)(a), the county legislative body may impose the tax by a
3706 majority vote of all members of the legislative body on the transactions:

3707 (i) described in Subsection (1); and

3708 (ii) within the county, including the cities and towns located in the county, except those
3709 cities and towns that have already imposed a sales and use tax under Part 14, City or Town
3710 Option Funding For Botanical, Cultural, Recreational, and Zoological Organizations or
3711 Facilities.

3712 (b) A county legislative body may revise county ordinances to reflect statutory changes
3713 to the distribution formula or eligible recipients of revenues generated from a tax imposed under
3714 Subsection (2)(a):

3715 (i) after the county legislative body submits an opinion question to residents of the
3716 county in accordance with Subsection (1) giving them the opportunity to express their opinion
3717 on the proposed revisions to county ordinances; and

3718 (ii) if the county legislative body determines that a majority of those voting on the
3719 opinion question have voted in favor of the revisions.

3720 (3) The monies generated from any tax imposed under Subsection (2) shall be used for
3721 funding:

3722 (a) recreational and zoological facilities located within the county or a city or town
3723 located in the county, except a city or town that has already imposed a sales and use tax under
3724 Part 14, City or Town Option Funding For Botanical, Cultural, Recreational, and Zoological
3725 Organizations or Facilities; and

3726 (b) ongoing operating expenses of:
3727 (i) recreational facilities described in Subsection (3)(a);
3728 (ii) botanical, cultural, and zoological organizations within the county; and
3729 (iii) rural radio stations within the county.

3730 (4) (a) A tax authorized under this part shall be:
3731 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in
3732 accordance with:
3733 (A) the same procedures used to administer, collect, and enforce the tax under:
3734 (I) Part 1, Tax Collection; or
3735 (II) Part 2, Local Sales and Use Tax Act; and
3736 (B) Chapter 1, General Taxation Policies; and
3737 (ii) levied for a period of ten years and may be reauthorized at the end of the ten-year
3738 period in accordance with this section.

3739 (b) Notwithstanding Subsection (4)(a)(i), a tax under this part is not subject to
3740 Subsections 59-12-205(2) through (7).

3741 (5) (a) For purposes of this Subsection (5):
3742 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2,
3743 Annexation to County.
3744 (ii) "Annexing area" means an area that is annexed into a county.

3745 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a
3746 county enacts or repeals a tax under this part, the enactment or repeal shall take effect:
3747 (A) on the first day of a calendar quarter; and
3748 (B) after a 90-day period beginning on the date the commission receives notice meeting
3749 the requirements of Subsection (5)(b)(ii) from the county.

3750 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:
3751 (A) that the county will enact or repeal a tax under this part;
3752 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);
3753 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

3754 (D) if the county enacts the tax described in Subsection (5)(b)(ii)(A), the rate of the tax.

3755 (c) (i) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection

3756 (5)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

3757 (A) that begins after the effective date of the enactment of the tax; and

3758 (B) if the billing period for the transaction begins before the effective date of the

3759 enactment of the tax under this section.

3760 (ii) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection

3761 (5)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

3762 (A) that began before the effective date of the repeal of the tax; and

3763 (B) if the billing period for the transaction begins before the effective date of the repeal

3764 of the tax imposed under this section.

3765 (iii) Subsections (5)(c)(i) and (ii) apply to transactions subject to a tax under:

3766 (A) Subsection 59-12-103(1)(b);

3767 (B) Subsection 59-12-103(1)(c);

3768 (C) Subsection 59-12-103(1)(d);

3769 (D) Subsection 59-12-103(1)(e);

3770 (E) Subsection 59-12-103(1)(f);

3771 (F) Subsection 59-12-103(1)(g);

3772 (G) Subsection 59-12-103(1)(h);

3773 (H) Subsection 59-12-103(1)(i);

3774 (I) Subsection 59-12-103(1)(j); or

3775 (J) Subsection 59-12-103(1)(k).

3776 (d) (i) Notwithstanding Subsection (5)(b)(i), if a tax due under this chapter on a

3777 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an

3778 enactment or repeal of a tax described in Subsection (5)(b)(i) takes effect:

3779 (A) on the first day of a calendar quarter; and

3780 (B) beginning 60 days after the effective date of the enactment or repeal under

3781 Subsection (5)(b)(i).

3782 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
3783 commission may by rule define the term "catalogue sale."

3784 (e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs
3785 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
3786 part for an annexing area, the enactment or repeal shall take effect:

3787 (A) on the first day of a calendar quarter; and

3788 (B) after a 90-day period beginning on the date the commission receives notice meeting
3789 the requirements of Subsection (5)(e)(ii) from the county that annexes the annexing area.

3790 (ii) The notice described in Subsection (5)(e)(i)(B) shall state:

3791 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or
3792 repeal of a tax under this part for the annexing area;

3793 (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

3794 (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

3795 (D) the rate of the tax described in Subsection (5)(e)(ii)(A).

3796 (f) (i) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection
3797 (5)(f)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

3798 (A) that begins after the effective date of the enactment of the tax; and

3799 (B) if the billing period for the transaction begins before the effective date of the
3800 enactment of the tax under this section.

3801 (ii) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection
3802 (5)(f)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

3803 (A) that began before the effective date of the repeal of the tax; and

3804 (B) if the billing period for the transaction begins before the effective date of the repeal
3805 of the tax imposed under this section.

3806 (iii) Subsections (5)(f)(i) and (ii) apply to transactions subject to a tax under:

3807 (A) Subsection 59-12-103(1)(b);

3808 (B) Subsection 59-12-103(1)(c);

3809 (C) Subsection 59-12-103(1)(d);

- 3810 (D) Subsection 59-12-103(1)(e);
3811 (E) Subsection 59-12-103(1)(f);
3812 (F) Subsection 59-12-103(1)(g);
3813 (G) Subsection 59-12-103(1)(h);
3814 (H) Subsection 59-12-103(1)(i);
3815 (I) Subsection 59-12-103(1)(j); or
3816 (J) Subsection 59-12-103(1)(k).
- 3817 (g) (i) Notwithstanding Subsection (5)(e)(i), if a tax due under this chapter on a
3818 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
3819 enactment or repeal of a tax described in Subsection (5)(e)(i) takes effect:
- 3820 (A) on the first day of a calendar quarter; and
3821 (B) beginning 60 days after the effective date of the enactment or repeal under
3822 Subsection (5)(e)(i).
- 3823 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
3824 commission may by rule define the term "catalogue sale."
- 3825 Section 25. Section **59-12-802** is amended to read:
- 3826 **59-12-802. Imposition of rural county health care facilities tax -- Expenditure of**
3827 **tax revenues -- Base -- Rate -- Administration, collection, and enforcement of tax.**
- 3828 (1) (a) A county legislative body of a county of the third, fourth, fifth, or sixth class
3829 may impose a sales and use tax of up to 1%:
- 3830 (i) on the transactions described in Subsection 59-12-103(1) located within the county;
3831 and
- 3832 (ii) subject to Subsection (3), to fund:
- 3833 (A) for a county of the third, fourth, or fifth class, rural county health care facilities in
3834 that county; or
- 3835 (B) for a county of the sixth class:
- 3836 (I) emergency medical services in that county;
3837 (II) federally qualified health centers in that county;

3838 (III) freestanding urgent care centers in that county;
3839 (IV) rural county health care facilities in that county;
3840 (V) rural health clinics in that county; or
3841 (VI) a combination of Subsections (1)(a)(ii)(B)(I) through (V).
3842 (b) Notwithstanding Subsection (1)(a)(i), a county legislative body may not impose a
3843 tax under this section on:
3844 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are
3845 exempt from taxation under Section 59-12-104;
3846 (ii) a transaction to the extent a rural city hospital tax is imposed on that transaction in a
3847 city that imposes a tax under Section 59-12-804; ~~and~~
3848 (iii) ~~any~~ amounts paid or charged by a seller that collects a tax under Subsection
3849 59-12-107(1)(b)~~[-]; and~~
3850 (iv) except as provided in Subsection (1)(d), amounts paid or charged for food and food
3851 ingredients.
3852 (c) For purposes of this Subsection (1), the location of a transaction shall be determined
3853 in accordance with Section 59-12-207.
3854 (d) A county legislative body imposing a tax under this section shall impose the tax on
3855 amounts paid or charged for food and food ingredients if:
3856 (i) the food and food ingredients are sold as part of a bundled transaction attributable to
3857 food and food ingredients and tangible personal property other than food and food ingredients;
3858 and
3859 (ii) the seller collecting the tax is a seller other than a seller that collects a tax in
3860 accordance with Subsection 59-12-107(1)(b).
3861 (2) (a) Before imposing a tax under Subsection (1)(a), a county legislative body shall
3862 obtain approval to impose the tax from a majority of the:
3863 (i) members of the county's legislative body; and
3864 (ii) county's registered voters voting on the imposition of the tax.
3865 (b) The county legislative body shall conduct the election according to the procedures

3866 and requirements of Title 11, Chapter 14, Local Government Bonding Act.

3867 (3) (a) The monies generated by a tax imposed under Subsection (1) by a county
3868 legislative body of a county of the third, fourth, or fifth class may only be used for the financing
3869 of:

3870 (i) ongoing operating expenses of a rural county health care facility within that county;
3871 (ii) the acquisition of land for a rural county health care facility within that county; or
3872 (iii) the design, construction, equipping, or furnishing of a rural county health care
3873 facility within that county.

3874 (b) The monies generated by a tax imposed under Subsection (1) by a county of the
3875 sixth class may only be used for the financing of:

3876 (i) ongoing operating expenses of a center, clinic, or facility described in Subsection
3877 (1)(a)(ii)(B) within that county;

3878 (ii) the acquisition of land for a center, clinic, or facility described in Subsection
3879 (1)(a)(ii)(B) within that county;

3880 (iii) the design, construction, equipping, or furnishing of a center, clinic, or facility
3881 described in Subsection (1)(a)(ii)(B) within that county; or

3882 (iv) the provision of rural emergency medical services within that county.

3883 (4) (a) A tax under this section shall be:

3884 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in
3885 accordance with:

3886 (A) the same procedures used to administer, collect, and enforce the tax under:

3887 (I) Part 1, Tax Collection; or

3888 (II) Part 2, Local Sales and Use Tax Act; and

3889 (B) Chapter 1, General Taxation Policies; and

3890 (ii) levied for a period of ten years and may be reauthorized at the end of the ten-year
3891 period by the county legislative body as provided in Subsection (1).

3892 (b) Notwithstanding Subsection (4)(a)(i), a tax under this section is not subject to
3893 Subsections 59-12-205(2) through (7).

(5) The commission may retain an amount not to exceed 1-1/2% of the tax collected under this section for the cost of administering this tax.

Section 26. Section **59-12-804** is amended to read:

59-12-804. Imposition of rural city hospital tax -- Base -- Rate -- Administration, collection, and enforcement of tax.

(1) (a) A city legislative body may impose a sales and use tax of up to 1%:

(i) on the transactions described in Subsection 59-12-103(1) located within the city; and

(ii) to fund rural city hospitals in that city.

(b) Notwithstanding Subsection (1)(a)(i), a city legislative body may not impose a tax under this section on:

(i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; ~~and~~

(ii) ~~any~~ amounts paid or charged by a seller that collects a tax under Subsection 59-12-107(1)(b)~~[-]; and~~

(iii) except as provided in Subsection (1)(d), amounts paid or charged for food and food ingredients.

(c) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Section 59-12-207.

(d) A city legislative body imposing a tax under this section shall impose the tax on amounts paid or charged for food and food ingredients if:

(i) the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients; and

(ii) the seller collecting the tax is a seller other than a seller that collects a tax in accordance with Subsection 59-12-107(1)(b).

(2) (a) Before imposing a tax under Subsection (1)(a), a city legislative body shall obtain approval to impose the tax from a majority of the:

(i) members of the city legislative body; and

- 3922 (ii) city's registered voters voting on the imposition of the tax.
- 3923 (b) The city legislative body shall conduct the election according to the procedures and
3924 requirements of Title 11, Chapter 14, Local Government Bonding Act.
- 3925 (3) The monies generated by a tax imposed under Subsection (1) may only be used for
3926 the financing of:
- 3927 (a) ongoing operating expenses of a rural city hospital;
- 3928 (b) the acquisition of land for a rural city hospital; or
- 3929 (c) the design, construction, equipping, or furnishing of a rural city hospital.
- 3930 (4) (a) A tax under this section shall be:
- 3931 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in
3932 accordance with:
- 3933 (A) the same procedures used to administer, collect, and enforce the tax under:
- 3934 (I) Part 1, Tax Collection; or
- 3935 (II) Part 2, Local Sales and Use Tax Act; and
- 3936 (B) Chapter 1, General Taxation Policies; and
- 3937 (ii) levied for a period of ten years and may be reauthorized at the end of the ten-year
3938 period by the city legislative body as provided in Subsection (1).
- 3939 (b) Notwithstanding Subsection (4)(a)(i), a tax under this section is not subject to
3940 Subsections 59-12-205(2) through (7).
- 3941 (5) The commission may retain an amount not to exceed 1-1/2% of the tax collected
3942 under this section for the cost of administering the tax.
- 3943 Section 27. Section **59-12-1001** is amended to read:
- 3944 **59-12-1001. Authority to impose tax for highways or to fund a system for public**
3945 **transit -- Base -- Rate -- Ordinance requirements -- Voter approval requirements --**
3946 **Election requirements -- Notice of election requirements -- Exceptions to voter approval**
3947 **requirements -- Enactment or repeal of tax -- Effective date -- Notice requirements.**
- 3948 (1) (a) A city or town in which the transactions described in Subsection 59-12-103(1)
3949 are not subject to a sales and use tax under Section 59-12-501 may as provided in this part

3950 impose a sales and use tax of:

3951 (i) beginning on January 1, 1998, and ending on December 31, 2007, .25% on the
3952 transactions described in Subsection 59-12-103(1) located within the city or town; or

3953 (ii) beginning on January 1, 2008, .30% on the transactions described in Subsection
3954 59-12-103(1) located within the city or town.

3955 (b) Notwithstanding Subsection (1)(a), a city or town may not impose a tax under this
3956 section on:

3957 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are
3958 exempt from taxation under Section 59-12-104; ~~[and]~~

3959 (ii) ~~[any]~~ amounts paid or charged by a seller that collects a tax under Subsection
3960 59-12-107(1)(b)~~[-]; and~~

3961 (iii) except as provided in Subsection (1)(d), amounts paid or charged for food and food
3962 ingredients.

3963 (c) For purposes of this Subsection (1), the location of a transaction shall be determined
3964 in accordance with Section 59-12-207.

3965 (d) A city or town imposing a tax under this section shall impose the tax on amounts
3966 paid or charged for food and food ingredients if:

3967 (i) the food and food ingredients are sold as part of a bundled transaction attributable to
3968 food and food ingredients and tangible personal property other than food and food ingredients;
3969 and

3970 (ii) the seller collecting the tax is a seller other than a seller that collects a tax in
3971 accordance with Subsection 59-12-107(1)(b).

3972 (2) (a) A city or town imposing a tax under this part may use the revenues generated by
3973 the tax:

3974 (i) for the construction and maintenance of highways under the jurisdiction of the city
3975 or town imposing the tax;

3976 (ii) subject to Subsection (2)(b), to fund a system for public transit; or

3977 (iii) for a combination of the purposes described in Subsections (2)(a)(i) and (ii).

3978 (b) (i) For purposes of Subsection (2)(a)(ii) and except as provided in Subsection
3979 (2)(b)(ii), "public transit" is as defined in Section 17A-2-1004.

3980 (ii) Notwithstanding Subsection (2)(b)(i), "public transit" does not include a fixed
3981 guideway system.

3982 (3) To impose a tax under this part, the governing body of the city or town shall:

3983 (a) pass an ordinance approving the tax; and

3984 (b) except as provided in Subsection (7) or (8), obtain voter approval for the tax as
3985 provided in Subsection (4).

3986 (4) To obtain voter approval for a tax under Subsection (3)(b), a city or town shall:

3987 (a) hold an election during:

3988 (i) a regular general election; or

3989 (ii) a municipal general election; and

3990 (b) publish notice of the election:

3991 (i) 15 days or more before the day on which the election is held; and

3992 (ii) in a newspaper of general circulation in the city or town.

3993 (5) An ordinance approving a tax under this part shall provide an effective date for the
3994 tax as provided in Subsection (6).

3995 (6) (a) For purposes of this Subsection (6):

3996 (i) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part
3997 4, Annexation.

3998 (ii) "Annexing area" means an area that is annexed into a city or town.

3999 (b) (i) Except as provided in Subsection (6)(c) or (d), if, on or after ~~[July]~~ April 1,
4000 ~~[2004]~~ 2008, a city or town enacts or repeals a tax under this part, the enactment or repeal shall
4001 take effect:

4002 (A) on the first day of a calendar quarter; and

4003 (B) after a 90-day period beginning on the date the commission receives notice meeting
4004 the requirements of Subsection (6)(b)(ii) from the city or town.

4005 (ii) The notice described in Subsection (6)(b)(i)(B) shall state:

4006 (A) that the city or town will enact or repeal a tax under this part;
4007 (B) the statutory authority for the tax described in Subsection (6)(b)(ii)(A);
4008 (C) the effective date of the tax described in Subsection (6)(b)(ii)(A); and
4009 (D) if the city or town enacts the tax described in Subsection (6)(b)(ii)(A), the rate of
4010 the tax.

4011 (c) (i) Notwithstanding Subsection (6)(b)(i), for a transaction described in Subsection
4012 (6)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:
4013 (A) that begins after the effective date of the enactment of the tax; and
4014 (B) if the billing period for the transaction begins before the effective date of the
4015 enactment of the tax under Subsection (1).

4016 (ii) Notwithstanding Subsection (6)(b)(i), for a transaction described in Subsection
4017 (6)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:
4018 (A) that began before the effective date of the repeal of the tax; and
4019 (B) if the billing period for the transaction begins before the effective date of the repeal
4020 of the tax imposed under Subsection (1).

4021 (iii) Subsections (6)(c)(i) and (ii) apply to transactions subject to a tax under:
4022 (A) Subsection 59-12-103(1)(b);
4023 (B) Subsection 59-12-103(1)(c);
4024 (C) Subsection 59-12-103(1)(d);
4025 (D) Subsection 59-12-103(1)(e);
4026 (E) Subsection 59-12-103(1)(f);
4027 (F) Subsection 59-12-103(1)(g);
4028 (G) Subsection 59-12-103(1)(h);
4029 (H) Subsection 59-12-103(1)(i);
4030 (I) Subsection 59-12-103(1)(j); or
4031 (J) Subsection 59-12-103(1)(k).

4032 (d) (i) Notwithstanding Subsection (6)(b)(i), if a tax due under this chapter on a
4033 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an

4034 enactment or repeal of a tax described in Subsection (6)(b)(i) takes effect:

4035 (A) on the first day of a calendar quarter; and

4036 (B) beginning 60 days after the effective date of the enactment or repeal under
4037 Subsection (6)(b)(i).

4038 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
4039 commission may by rule define the term "catalogue sale."

4040 (e) (i) Except as provided in Subsection (6)(f) or (g), if, for an annexation that occurs
4041 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
4042 part for an annexing area, the enactment or repeal shall take effect:

4043 (A) on the first day of a calendar quarter; and

4044 (B) after a 90-day period beginning on the date the commission receives notice meeting
4045 the requirements of Subsection (6)(e)(ii) from the city or town that annexes the annexing area.

4046 (ii) The notice described in Subsection (6)(e)(i)(B) shall state:

4047 (A) that the annexation described in Subsection (6)(e)(i) will result in an enactment or
4048 repeal of a tax under this part for the annexing area;

4049 (B) the statutory authority for the tax described in Subsection (6)(e)(ii)(A);

4050 (C) the effective date of the tax described in Subsection (6)(e)(ii)(A); and

4051 (D) the rate of the tax described in Subsection (6)(e)(ii)(A).

4052 (f) (i) Notwithstanding Subsection (6)(e)(i), for a transaction described in Subsection
4053 (6)(f)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

4054 (A) that begins after the effective date of the enactment of the tax; and

4055 (B) if the billing period for the transaction begins before the effective date of the
4056 enactment of the tax under Subsection (1).

4057 (ii) Notwithstanding Subsection (6)(e)(i), for a transaction described in Subsection
4058 (6)(f)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

4059 (A) that began before the effective date of the repeal of the tax; and

4060 (B) if the billing period for the transaction begins before the effective date of the repeal
4061 of the tax imposed under Subsection (1).

4062 (iii) Subsections (6)(f)(i) and (ii) apply to transactions subject to a tax under:
4063 (A) Subsection 59-12-103(1)(b);
4064 (B) Subsection 59-12-103(1)(c);
4065 (C) Subsection 59-12-103(1)(d);
4066 (D) Subsection 59-12-103(1)(e);
4067 (E) Subsection 59-12-103(1)(f);
4068 (F) Subsection 59-12-103(1)(g);
4069 (G) Subsection 59-12-103(1)(h);
4070 (H) Subsection 59-12-103(1)(i);
4071 (I) Subsection 59-12-103(1)(j); or
4072 (J) Subsection 59-12-103(1)(k).
4073 (g) (i) Notwithstanding Subsection (6)(e)(i), if a tax due under this chapter on a
4074 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
4075 enactment or repeal of a tax described in Subsection (6)(e)(i) takes effect:
4076 (A) on the first day of a calendar quarter; and
4077 (B) beginning 60 days after the effective date of the enactment or repeal under
4078 Subsection (6)(e)(i).
4079 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
4080 commission may by rule define the term "catalogue sale."
4081 (7) (a) Except as provided in Subsection (7)(b), a city or town is not subject to the
4082 voter approval requirements of Subsection (3)(b) if:
4083 (i) on or before January 1, 1996, the city or town imposed a license fee or tax on
4084 businesses based on gross receipts pursuant to Section 10-1-203; or
4085 (ii) the city or town:
4086 (A) on or before June 30, 2002, obtained voter approval in accordance with Subsection
4087 (3)(b) to impose a tax under this part for a purpose described in Subsection (2)(a)(i); and
4088 (B) on or after July 1, 2002, uses the revenues generated by a tax under this part for a
4089 purpose described in Subsection (2)(a).

4090 (b) Notwithstanding Subsection (7)(a), the exception from the voter approval
4091 requirements in Subsection (7)(a)(i) does not apply to a city or town that, on or before January
4092 1, 1996, imposed a license fee or tax on only one class of businesses based on gross receipts
4093 pursuant to Section 10-1-203.

4094 (8) A city or town is not subject to the voter approval requirements of Subsection
4095 (3)(b) if:

4096 (a) on December 31, 2007, the city or town imposes a tax of .25% under this section;
4097 and

4098 (b) on or after January 1, 2008, the city or town increases the tax rate under this section
4099 to .30%.

4100 Section 28. Section **59-12-1302** is amended to read:

4101 **59-12-1302. Imposition of tax -- Base -- Rate -- Enactment or repeal of tax -- Tax**
4102 **rate change -- Effective date -- Notice requirements.**

4103 (1) Beginning on or after January 1, 1998, the governing body of a town may impose a
4104 tax as provided in this part in an amount that does not exceed 1%.

4105 (2) A town may impose a tax as provided in this part if the town imposed a license fee
4106 or tax on businesses based on gross receipts under Section 10-1-203 on or before January 1,
4107 1996.

4108 (3) A town imposing a tax under this section shall:

4109 (a) except as provided in Subsection (4), impose the tax on the transactions described in
4110 Subsection 59-12-103(1) located within the town; and

4111 (b) provide an effective date for the tax as provided in Subsection (5).

4112 (4) (a) Notwithstanding Subsection (3)(a), a town may not impose a tax under this
4113 section on:

4114 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are
4115 exempt from taxation under Section 59-12-104; ~~and~~

4116 (ii) ~~any~~ amounts paid or charged by a seller that collects a tax under Subsection
4117 59-12-107(1)(b)~~[:]; and~~

4118 (iii) except as provided in Subsection (4)(c), amounts paid or charged for food and food
4119 ingredients.

4120 (b) For purposes of this Subsection (4), the location of a transaction shall be determined
4121 in accordance with Section 59-12-207.

4122 (c) A town imposing a tax under this section shall impose the tax on amounts paid or
4123 charged for food and food ingredients if:

4124 (i) the food and food ingredients are sold as part of a bundled transaction attributable to
4125 food and food ingredients and tangible personal property other than food and food ingredients;
4126 and

4127 (ii) the seller collecting the tax is a seller other than a seller that collects a tax in
4128 accordance with Subsection 59-12-107(1)(b).

4129 (5) (a) For purposes of this Subsection (5):

4130 (i) "Annexation" means an annexation to a town under Title 10, Chapter 2, Part 4,
4131 Annexation.

4132 (ii) "Annexing area" means an area that is annexed into a town.

4133 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a
4134 town enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal,
4135 or change shall take effect:

4136 (A) on the first day of a calendar quarter; and

4137 (B) after a 90-day period beginning on the date the commission receives notice meeting
4138 the requirements of Subsection (5)(b)(ii) from the town.

4139 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:

4140 (A) that the town will enact or repeal a tax or change the rate of a tax under this part;

4141 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

4142 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

4143 (D) if the town enacts the tax or changes the rate of the tax described in Subsection
4144 (5)(b)(ii)(A), the rate of the tax.

4145 (c) (i) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection

4146 (5)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
4147 first billing period:

4148 (A) that begins after the effective date of the enactment of the tax or the tax rate
4149 increase; and

4150 (B) if the billing period for the transaction begins before the effective date of the
4151 enactment of the tax or the tax rate increase imposed under Subsection (1).

4152 (ii) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection
4153 (5)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last
4154 billing period:

4155 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
4156 and

4157 (B) if the billing period for the transaction begins before the effective date of the repeal
4158 of the tax or the tax rate decrease imposed under Subsection (1).

4159 (iii) Subsections (5)(c)(i) and (ii) apply to transactions subject to a tax under:

4160 (A) Subsection 59-12-103(1)(b);

4161 (B) Subsection 59-12-103(1)(c);

4162 (C) Subsection 59-12-103(1)(d);

4163 (D) Subsection 59-12-103(1)(e);

4164 (E) Subsection 59-12-103(1)(f);

4165 (F) Subsection 59-12-103(1)(g);

4166 (G) Subsection 59-12-103(1)(h);

4167 (H) Subsection 59-12-103(1)(i);

4168 (I) Subsection 59-12-103(1)(j); or

4169 (J) Subsection 59-12-103(1)(k).

4170 (d) (i) Notwithstanding Subsection (5)(b)(i), if a tax due under this chapter on a
4171 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
4172 enactment, repeal, or change in the rate of a tax described in Subsection (5)(b)(i) takes effect:

4173 (A) on the first day of a calendar quarter; and

4174 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
4175 rate of the tax under Subsection (5)(b)(i).

4176 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
4177 commission may by rule define the term "catalogue sale."

4178 (e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs
4179 on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate
4180 of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

4181 (A) on the first day of a calendar quarter; and

4182 (B) after a 90-day period beginning on the date the commission receives notice meeting
4183 the requirements of Subsection (5)(e)(ii) from the town that annexes the annexing area.

4184 (ii) The notice described in Subsection (5)(e)(i)(B) shall state:

4185 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment,
4186 repeal, or change in the rate of a tax under this part for the annexing area;

4187 (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

4188 (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

4189 (D) if the town enacts the tax or changes the rate of the tax described in Subsection
4190 (5)(e)(ii)(A), the rate of the tax.

4191 (f) (i) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection
4192 (5)(f)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
4193 first billing period:

4194 (A) that begins after the effective date of the enactment of the tax or the tax rate
4195 increase; and

4196 (B) if the billing period for the transaction begins before the effective date of the
4197 enactment of the tax or the tax rate increase imposed under Subsection (1).

4198 (ii) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection
4199 (5)(f)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last
4200 billing period:

4201 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;

4202 and

4203 (B) if the billing period for the transaction begins before the effective date of the repeal
4204 of the tax or the tax rate decrease imposed under Subsection (1).

4205 (iii) Subsections (5)(f)(i) and (ii) apply to transactions subject to a tax under:

4206 (A) Subsection 59-12-103(1)(b);

4207 (B) Subsection 59-12-103(1)(c);

4208 (C) Subsection 59-12-103(1)(d);

4209 (D) Subsection 59-12-103(1)(e);

4210 (E) Subsection 59-12-103(1)(f);

4211 (F) Subsection 59-12-103(1)(g);

4212 (G) Subsection 59-12-103(1)(h);

4213 (H) Subsection 59-12-103(1)(i);

4214 (I) Subsection 59-12-103(1)(j); or

4215 (J) Subsection 59-12-103(1)(k).

4216 (g) (i) Notwithstanding Subsection (5)(e)(i), if a tax due under this chapter on a
4217 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
4218 enactment, repeal, or change in the rate of a tax described in Subsection (5)(e)(i) takes effect:

4219 (A) on the first day of a calendar quarter; and

4220 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
4221 rate of the tax under Subsection (5)(e)(i).

4222 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
4223 commission may by rule define the term "catalogue sale."

4224 (6) The commission shall:

4225 (a) except as provided in Subsection (6)(c), distribute the revenues generated by the tax
4226 under this section to the town imposing the tax;

4227 (b) except as provided in Subsection (7), administer, collect, and enforce the tax
4228 authorized under this section in accordance with:

4229 (i) the same procedures used to administer, collect, and enforce the tax under:

4230 (A) Part 1, Tax Collection; or
4231 (B) Part 2, Local Sales and Use Tax Act; and
4232 (ii) Chapter 1, General Taxation Policies; and
4233 (c) deduct from the distribution under Subsection (6)(a) an administrative charge for
4234 collecting the tax as provided in Section 59-12-206.

4235 (7) Notwithstanding Subsection (6)(b), a tax under this section is not subject to
4236 Subsections 59-12-205(2) through (7).

4237 Section 29. Section **59-12-1402** is amended to read:

4238 **59-12-1402. Opinion question election -- Base -- Rate -- Imposition of tax -- Uses**
4239 **of tax monies -- Enactment or repeal of tax -- Effective date -- Notice requirements.**

4240 (1) (a) (i) Subject to Subsection (6), beginning on January 1, 2003, a city or town
4241 legislative body subject to this part may submit an opinion question to the residents of that city
4242 or town, by majority vote of all members of the legislative body, so that each resident of the city
4243 or town has an opportunity to express the resident's opinion on the imposition of a local sales
4244 and use tax of .1% on the transactions described in Subsection 59-12-103(1) located within the
4245 city or town, to fund recreational and zoological facilities and botanical, cultural, and zoological
4246 organizations in that city or town.

4247 (ii) Notwithstanding Subsection (1)(a)(i), a city or town legislative body may not
4248 impose a tax under this section:

4249 (A) if the county in which the city or town is located imposes a tax under Part 7,
4250 County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or
4251 Facilities;

4252 (B) on the sales and uses described in Section 59-12-104 to the extent the sales and
4253 uses are exempt from taxation under Section 59-12-104; ~~and~~

4254 (C) on ~~any~~ amounts paid or charged by a seller that collects a tax under Subsection
4255 59-12-107(1)(b)~~[-]; and~~

4256 (D) except as provided in Subsection (1)(c), on amounts paid or charged for food and
4257 food ingredients.

4258 (b) For purposes of this Subsection (1), the location of a transaction shall be determined
4259 in accordance with Section 59-12-207.

4260 (c) A city or town legislative body imposing a tax under this section shall impose the tax
4261 on amounts paid or charged for food and food ingredients if:

4262 (i) the food and food ingredients are sold as part of a bundled transaction attributable to
4263 food and food ingredients and tangible personal property other than food and food ingredients;
4264 and

4265 (ii) the seller collecting the tax is a seller other than a seller that collects a tax in
4266 accordance with Subsection 59-12-107(1)(b).

4267 [~~(c)~~] (d) The election shall be held at a regular general election or a municipal general
4268 election, as those terms are defined in Section 20A-1-102, and shall follow the procedures
4269 outlined in Title 11, Chapter 14, Local Government Bonding Act, except as provided in
4270 Subsection (6).

4271 (2) If the city or town legislative body determines that a majority of the city's or town's
4272 registered voters voting on the imposition of the tax have voted in favor of the imposition of the
4273 tax as prescribed in Subsection (1)(a), the city or town legislative body may impose the tax by a
4274 majority vote of all members of the legislative body.

4275 (3) The monies generated from any tax imposed under Subsection (2) shall be used for
4276 financing:

4277 (a) recreational and zoological facilities within the city or town or within the geographic
4278 area of entities that are parties to an interlocal agreement, to which the city or town is a party,
4279 providing for recreational or zoological facilities; and

4280 (b) ongoing operating expenses of botanical, cultural, and zoological organizations
4281 within the city or town or within the geographic area of entities that are parties to an interlocal
4282 agreement, to which the city or town is a party, providing for the support of botanical, cultural,
4283 or zoological organizations.

4284 (4) (a) A tax authorized under this part shall be:

4285 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in

4286 accordance with:

4287 (A) the same procedures used to administer, collect, and enforce the tax under:

4288 (I) Part 1, Tax Collection; or

4289 (II) Part 2, Local Sales and Use Tax Act; and

4290 (B) Chapter 1, General Taxation Policies; and

4291 (ii) (A) levied for a period of eight years; and

4292 (B) may be reauthorized at the end of the eight-year period in accordance with this

4293 section.

4294 (b) Notwithstanding Subsection (4)(a)(i), a tax under this section is not subject to

4295 Subsections 59-12-205(2) through (7).

4296 (5) (a) For purposes of this Subsection (5):

4297 (i) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part
4298 4, Annexation.

4299 (ii) "Annexing area" means an area that is annexed into a city or town.

4300 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a city
4301 or town enacts or repeals a tax under this part, the enactment or repeal shall take effect:

4302 (A) on the first day of a calendar quarter; and

4303 (B) after a 90-day period beginning on the date the commission receives notice meeting
4304 the requirements of Subsection (5)(b)(ii) from the city or town.

4305 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:

4306 (A) that the city or town will enact or repeal a tax under this part;

4307 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

4308 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

4309 (D) if the city or town enacts the tax described in Subsection (5)(b)(ii)(A), the rate of
4310 the tax.

4311 (c) (i) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection
4312 (5)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

4313 (A) that begins after the effective date of the enactment of the tax; and

4314 (B) if the billing period for the transaction begins before the effective date of the
4315 enactment of the tax under this section.

4316 (ii) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection
4317 (5)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

4318 (A) that began before the effective date of the repeal of the tax; and

4319 (B) if the billing period for the transaction begins before the effective date of the repeal
4320 of the tax imposed under this section.

4321 (iii) Subsections (5)(c)(i) and (ii) apply to transactions subject to a tax under:

4322 (A) Subsection 59-12-103(1)(b);

4323 (B) Subsection 59-12-103(1)(c);

4324 (C) Subsection 59-12-103(1)(d);

4325 (D) Subsection 59-12-103(1)(e);

4326 (E) Subsection 59-12-103(1)(f);

4327 (F) Subsection 59-12-103(1)(g);

4328 (G) Subsection 59-12-103(1)(h);

4329 (H) Subsection 59-12-103(1)(i);

4330 (I) Subsection 59-12-103(1)(j); or

4331 (J) Subsection 59-12-103(1)(k).

4332 (d) (i) Notwithstanding Subsection (5)(b)(i), if a tax due under this chapter on a
4333 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
4334 enactment or repeal of a tax described in Subsection (5)(b)(i) takes effect:

4335 (A) on the first day of a calendar quarter; and

4336 (B) beginning 60 days after the effective date of the enactment or repeal under
4337 Subsection (5)(b)(i).

4338 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
4339 commission may by rule define the term "catalogue sale."

4340 (e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs
4341 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this

4342 part for an annexing area, the enactment or repeal shall take effect:

4343 (A) on the first day of a calendar quarter; and

4344 (B) after a 90-day period beginning on the date the commission receives notice meeting
4345 the requirements of Subsection (5)(e)(ii) from the city or town that annexes the annexing area.

4346 (ii) The notice described in Subsection (5)(e)(i)(B) shall state:

4347 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or
4348 repeal a tax under this part for the annexing area;

4349 (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

4350 (C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

4351 (D) the rate of the tax described in Subsection (5)(e)(ii)(A).

4352 (f) (i) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection
4353 (5)(f)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

4354 (A) that begins after the effective date of the enactment of the tax; and

4355 (B) if the billing period for the transaction begins before the effective date of the
4356 enactment of the tax under this section.

4357 (ii) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection
4358 (5)(f)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

4359 (A) that began before the effective date of the repeal of the tax; and

4360 (B) if the billing period for the transaction begins before the effective date of the repeal
4361 of the tax imposed under this section.

4362 (iii) Subsections (5)(f)(i) and (ii) apply to transactions subject to a tax under:

4363 (A) Subsection 59-12-103(1)(b);

4364 (B) Subsection 59-12-103(1)(c);

4365 (C) Subsection 59-12-103(1)(d);

4366 (D) Subsection 59-12-103(1)(e);

4367 (E) Subsection 59-12-103(1)(f);

4368 (F) Subsection 59-12-103(1)(g);

4369 (G) Subsection 59-12-103(1)(h);

4370 (H) Subsection 59-12-103(1)(i);

4371 (I) Subsection 59-12-103(1)(j); or

4372 (J) Subsection 59-12-103(1)(k).

4373 (g) (i) Notwithstanding Subsection (5)(e)(i), if a tax due under this chapter on a
4374 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
4375 enactment or repeal of a tax described in Subsection (5)(e)(i) takes effect:

4376 (A) on the first day of a calendar quarter; and

4377 (B) beginning 60 days after the effective date of the enactment or repeal under
4378 Subsection (5)(e)(i).

4379 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
4380 commission may by rule define the term "catalogue sale."

4381 (6) (a) Before a city or town legislative body submits an opinion question to the
4382 residents of the city or town under Subsection (1)(a)(i), the city or town legislative body shall:

4383 (i) submit to the county legislative body in which the city or town is located a written
4384 notice of the intent to submit the opinion question to the residents of the city or town; and

4385 (ii) receive from the county legislative body:

4386 (A) a written resolution passed by the county legislative body stating that the county
4387 legislative body is not seeking to impose a tax under Part 7, County Option Funding for
4388 Botanical, Cultural, Recreational, and Zoological Organizations or Facilities; or

4389 (B) a written statement that in accordance with Subsection (6)(b) the results of a county
4390 opinion question submitted to the residents of the county under Part 7, County Option Funding
4391 for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, permit the city
4392 or town legislative body to submit the opinion question to the residents of the city or town in
4393 accordance with this part.

4394 (b) (i) Within 60 days after the day the county legislative body receives from a city or
4395 town legislative body described in Subsection (6)(a) the notice of the intent to submit an opinion
4396 question to the residents of the city or town, the county legislative body shall provide the city or
4397 town legislative body:

4398 (A) the written resolution described in Subsection (6)(a)(ii)(A); or

4399 (B) written notice that the county legislative body will submit an opinion question to the
4400 residents of the county under Part 7, County Option Funding for Botanical, Cultural,
4401 Recreational, and Zoological Organizations or Facilities, for the county to impose a tax under
4402 that part.

4403 (ii) If the county legislative body provides the city or town legislative body the written
4404 notice that the county legislative body will submit an opinion question as provided in Subsection
4405 (6)(b)(i)(B), the county legislative body shall submit the opinion question by no later than, from
4406 the date the county legislative body sends the written notice, the later of:

4407 (A) a 12-month period;

4408 (B) the next regular primary election; or

4409 (C) the next regular general election.

4410 (iii) Within 30 days of the date of the canvass of the election at which the opinion
4411 question under Subsection (6)(b)(ii) is voted on, the county legislative body shall provide the
4412 city or town legislative body described in Subsection (6)(a) written results of the opinion
4413 question submitted by the county legislative body under Part 7, County Option Funding for
4414 Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, indicating that:

4415 (A) (I) the city or town legislative body may not impose a tax under this part because a
4416 majority of the county's registered voters voted in favor of the county imposing the tax and the
4417 county legislative body by a majority vote approved the imposition of the tax; or

4418 (II) for at least 12 months from the date the written results are submitted to the city or
4419 town legislative body, the city or town legislative body may not submit to the county legislative
4420 body a written notice of the intent to submit an opinion question under this part because a
4421 majority of the county's registered voters voted against the county imposing the tax and the
4422 majority of the registered voters who are residents of the city or town described in Subsection
4423 (6)(a) voted against the imposition of the county tax; or

4424 (B) the city or town legislative body may submit the opinion question to the residents of
4425 the city or town in accordance with this part because although a majority of the county's

registered voters voted against the county imposing the tax, the majority of the registered voters who are residents of the city or town voted for the imposition of the county tax.

(c) Notwithstanding Subsection (6)(b), at any time a county legislative body may provide a city or town legislative body described in Subsection (6)(a) a written resolution passed by the county legislative body stating that the county legislative body is not seeking to impose a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, which permits the city or town legislative body to submit under Subsection (1)(a)(i) an opinion question to the city's or town's residents.

Section 30. Section **59-12-1503** is amended to read:

59-12-1503. Opinion question election -- Base -- Rate -- Imposition of tax -- Use of tax revenues -- Administration, collection, and enforcement of tax by commission -- Administrative fee -- Enactment or repeal of tax -- Annexation -- Notice.

(1) (a) [~~Beginning on or after April 1, 2004, and subject~~] Subject to the other provisions of this part, the county legislative body of a qualifying county may impose a sales and use tax of:

(i) beginning on April 1, 2004, and ending on December 31, 2007, .25%:

[(i)] (A) on the transactions:

[(A)] (I) described in Subsection 59-12-103(1); and

[(B)] (II) within the county, including the cities and towns within the county;

[(ii)] (B) for the purposes determined by the county legislative body in accordance with Subsection (2); and

[(iii)] (C) in addition to any other sales and use tax authorized under this chapter[:]; or

(ii) beginning on January 1, 2008, up to .30%:

(A) on the transactions:

(I) described in Subsection 59-12-103(1); and

(II) within the county, including the cities and towns within the county;

(B) for the purposes determined by the county legislative body in accordance with Subsection (2); and

4454 (C) in addition to any other sales and use tax authorized under this chapter.

4455 (b) Notwithstanding Subsection (1)(a)[(†)], a county legislative body may not impose a
4456 tax under this section on:

4457 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are
4458 exempt from taxation under Section 59-12-104; ~~[or]~~

4459 (ii) ~~[any]~~ amounts paid or charged by a seller that collects a tax under Subsection
4460 59-12-107(1)(b)~~[-]~~; and

4461 (iii) except as provided in Subsection (1)(d), amounts paid or charged for food and food
4462 ingredients.

4463 (c) For purposes of this Subsection (1), the location of a transaction shall be determined
4464 in accordance with Section 59-12-207.

4465 (d) A county legislative body imposing a tax under this section shall impose the tax on
4466 amounts paid or charged for food and food ingredients if:

4467 (i) the food and food ingredients are sold as part of a bundled transaction attributable to
4468 food and food ingredients and tangible personal property other than food and food ingredients;
4469 and

4470 (ii) the seller collecting the tax is a seller other than a seller that collects a tax in
4471 accordance with Subsection 59-12-107(1)(b).

4472 (2) (a) Subject to Subsection (2)(b), before obtaining the approval required by
4473 Subsection (3), a county legislative body shall adopt a resolution specifying the percentage of
4474 revenues the county will receive from the tax under this part that will be allocated to fund one
4475 or more of the following:

4476 (i) a project or service relating to a fixed guideway system:

4477 (A) for the portion of the project or service that is performed within the county; and

4478 (B) if the fixed guideway system is owned and operated by a public transit district
4479 organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act;

4480 (ii) a project or service relating to a system for public transit:

4481 (A) for the portion of the project or service that is performed within the county; and

4482 (B) if the system for public transit is owned and operated by a public transit district
4483 organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act; or
4484 (iii) the following relating to a state highway within the county:
4485 (A) a project beginning on or after the day on which a county legislative body imposes a
4486 tax under this part only within the county involving:
4487 (I) new construction;
4488 (II) a renovation;
4489 (III) an improvement; or
4490 (IV) an environmental study;
4491 (B) debt service on a project described in Subsections (2)(a)(iii)(A)(I) through (IV); or
4492 (C) bond issuance costs relating to a project described in Subsections (2)(a)(iii)(A)(I)
4493 through (IV).
4494 (b) (i) A county legislative body shall in the resolution required by Subsection (2)(a)
4495 allocate as required by Subsection (2)(a) 100% of the revenues the county will receive from the
4496 tax under this part.
4497 (ii) For purposes of this Subsection (2)(b), the revenues a county will receive from the
4498 tax under this part do not include amounts retained by the commission in accordance with
4499 Subsection (8).
4500 (3) (a) ~~[Before]~~ Except as provided in Subsection (3)(d), before imposing a tax under
4501 this part, a county legislative body shall:
4502 (i) obtain approval from a majority of the members of the county legislative body to:
4503 (A) impose the tax; and
4504 (B) allocate the revenues the county will receive from the tax in accordance with the
4505 resolution adopted in accordance with Subsection (2); and
4506 (ii) subject to Subsection (3)(b), submit an opinion question to the county's registered
4507 voters voting on the imposition of the tax so that each registered voter has the opportunity to
4508 express the registered voter's opinion on whether a tax should be imposed under this part.
4509 (b) The opinion question required by Subsection (3)(a)(ii) shall state the allocations

4510 specified in the resolution:

4511 (i) adopted in accordance with Subsection (2); and

4512 (ii) approved by the county legislative body in accordance with Subsection (3)(a).

4513 (c) The election required by this Subsection (3) shall be held:

4514 (i) (A) at a regular general election; and

4515 (B) in accordance with the procedures and requirements of Title 20A, Election Code,
4516 governing regular general elections; or

4517 (ii) (A) at a special election called by the county legislative body;

4518 (B) only on the date of a municipal general election provided in Subsection

4519 20A-1-202(1); and

4520 (C) in accordance with the procedures and requirements of Section 20A-1-203.

4521 (d) A county is not subject to the voter approval requirements of this section if:

4522 (i) on December 31, 2007, the county imposes a tax of .25% under this section; and

4523 (ii) on or after January 1, 2008, the county increases the tax rate under this section to
4524 up to .30%.

4525 (4) (a) Subject to Subsection (8), if a county legislative body determines that a majority
4526 of the county's registered voters voting on the imposition of the tax have voted in favor of the
4527 imposition of the tax in accordance with Subsection (3), the county legislative body may impose
4528 the tax by a majority vote of all of the members of the county legislative body.

4529 (b) If a county legislative body imposes a tax under Subsection (4)(a), the revenues
4530 generated by the tax shall be:

4531 (i) allocated in accordance with the allocations specified in the resolution under
4532 Subsection (2); and

4533 (ii) expended as provided in this part.

4534 (5) If a county legislative body allocates revenues generated by the tax for a project
4535 described in Subsection (2)(a)(iii)(A), before beginning the project the county legislative body
4536 shall:

4537 (a) obtain approval from the Transportation Commission to complete the project; and

4538 (b) enter into an interlocal agreement:
4539 (i) established in accordance with Title 11, Chapter 13, Interlocal Cooperation Act;
4540 (ii) with the Department of Transportation; and
4541 (iii) to complete the project.

4542 (6) (a) If after a county legislative body imposes a tax under Subsection (4) the county
4543 legislative body seeks to change the allocation of the tax specified in the resolution under
4544 Subsection (2), the county legislative body may change the allocation of the tax by:

4545 (i) adopting a resolution in accordance with Subsection (2) specifying the percentage of
4546 revenues the county will receive from the tax under this part that will be allocated to fund one
4547 or more of the systems or projects described in Subsection (2);

4548 (ii) obtaining approval to change the allocation of the tax from a majority of the
4549 members of the county legislative body; and

4550 (iii) (A) submitting an opinion question to the county's registered voters voting on
4551 changing the allocation of the tax so that each registered voter has the opportunity to express
4552 the registered voter's opinion on whether the allocation of the tax should be changed; and

4553 (B) obtaining approval to change the allocation of the tax from a majority of the
4554 county's registered voters voting on changing the allocation of the tax.

4555 (b) (i) The opinion question required by Subsection (6)(a)(iii) shall state the allocations
4556 specified in the resolution:

4557 (A) adopted in accordance with Subsection (6)(a)(i); and
4558 (B) approved by the county legislative body in accordance with Subsection (6)(a)(ii).

4559 (ii) The election required by Subsection (6)(a)(iii) shall follow the procedures and
4560 requirements of Title 11, Chapter 14, Local Government Bonding Act.

4561 (7) (a) (i) Except as provided in Subsection (7)(a)(ii), revenues generated by a tax
4562 under this part that are allocated for a purpose described in Subsection (2)(a)(i) or (ii) shall be
4563 transmitted:

4564 (A) by the commission;
4565 (B) to the county;

4566 (C) monthly; and
4567 (D) by electronic funds transfer.

4568 (ii) Notwithstanding Subsection (7)(a)(i), a county may request that the commission
4569 transfer the revenues described in Subsection (7)(a)(i):

4570 (A) directly to a public transit district:

4571 (I) organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act; and
4572 (II) designated by the county; and

4573 (B) by providing written notice to the commission:

4574 (I) requesting the revenues to be transferred directly to a public transit district as
4575 provided in Subsection (7)(a)(ii)(A); and

4576 (II) designating the public transit district to which the revenues are requested to be
4577 transferred.

4578 (b) Revenues generated by a tax under this part that are allocated for a purpose
4579 described in Subsection (2)(a)(iii) shall be:

4580 (i) deposited into the State Highway Projects Within Counties Fund created by Section
4581 72-2-121.1; and

4582 (ii) expended as provided in Section 72-2-121.1.

4583 (8) (a) (i) Except as provided in Subsection (8)(a)(ii), the tax authorized under this part
4584 shall be administered, collected, and enforced in accordance with:

4585 (A) the same procedures used to administer, collect, and enforce the tax under:

4586 (I) Part 1, Tax Collection; or
4587 (II) Part 2, Local Sales and Use Tax Act; and

4588 (B) Chapter 1, General Taxation Policies.

4589 (ii) Notwithstanding Subsection (8)(a)(i), a tax under this part is not subject to
4590 Subsections 59-12-205(2) through (7).

4591 (b) (i) The commission may retain an amount of tax collected under this part of not to
4592 exceed the lesser of:

4593 (A) 1.5%; or

- 4594 (B) an amount equal to the cost to the commission of administering this part.
- 4595 (ii) Any amount the commission retains under Subsection (8)(b)(i) shall be:
- 4596 (A) placed in the Sales and Use Tax Administrative Fees Account; and
- 4597 (B) used as provided in Subsection 59-12-206(2).
- 4598 (9) (a) (i) Except as provided in Subsection (9)(b) or (c), if, on or after [~~July 1, 2004~~]
- 4599 April 1, 2008, a county enacts or repeals a tax under this part, the enactment or repeal shall take
- 4600 effect:
- 4601 (A) on the first day of a calendar quarter; and
- 4602 (B) after a 90-day period beginning on the date the commission receives notice meeting
- 4603 the requirements of Subsection (9)(a)(ii) from the county.
- 4604 (ii) The notice described in Subsection (9)(a)(i)(B) shall state:
- 4605 (A) that the county will enact or repeal a tax under this part;
- 4606 (B) the statutory authority for the tax described in Subsection (9)(a)(ii)(A);
- 4607 (C) the effective date of the tax described in Subsection (9)(a)(ii)(A); and
- 4608 (D) if the county enacts the tax described in Subsection (9)(a)(ii)(A), the rate of the tax.
- 4609 (b) (i) Notwithstanding Subsection (9)(a)(i), for a transaction described in Subsection
- 4610 (9)(b)(iii), the enactment of a tax shall take effect on the first day of the first billing period:
- 4611 (A) that begins after the effective date of the enactment of the tax; and
- 4612 (B) if the billing period for the transaction begins before the effective date of the
- 4613 enactment of the tax under Subsection (1).
- 4614 (ii) Notwithstanding Subsection (9)(a)(i), for a transaction described in Subsection
- 4615 (9)(b)(iii), the repeal of a tax shall take effect on the first day of the last billing period:
- 4616 (A) that began before the effective date of the repeal of the tax; and
- 4617 (B) if the billing period for the transaction begins before the effective date of the repeal
- 4618 of the tax imposed under Subsection (1).
- 4619 (iii) Subsections (9)(b)(i) and (ii) apply to transactions subject to a tax under:
- 4620 (A) Subsection 59-12-103(1)(b);
- 4621 (B) Subsection 59-12-103(1)(c);

4622 (C) Subsection 59-12-103(1)(d);

4623 (D) Subsection 59-12-103(1)(e);

4624 (E) Subsection 59-12-103(1)(f);

4625 (F) Subsection 59-12-103(1)(g);

4626 (G) Subsection 59-12-103(1)(h);

4627 (H) Subsection 59-12-103(1)(i);

4628 (I) Subsection 59-12-103(1)(j); or

4629 (J) Subsection 59-12-103(1)(k).

4630 (c) (i) Notwithstanding Subsection (9)(a)(i), if a tax due under this chapter on a
4631 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
4632 enactment or repeal of a tax described in Subsection (9)(a)(i) takes effect:

4633 (A) on the first day of a calendar quarter; and

4634 (B) beginning 60 days after the effective date of the enactment or repeal under
4635 Subsection (9)(a)(i).

4636 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
4637 commission may by rule define the term "catalogue sale."

4638 (d) (i) Except as provided in Subsection (9)(e) or (f), if, for an annexation that occurs
4639 on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this
4640 part for an annexing area, the enactment or repeal shall take effect:

4641 (A) on the first day of a calendar quarter; and

4642 (B) after a 90-day period beginning on the date the commission receives notice meeting
4643 the requirements of Subsection (9)(d)(ii) from the county that annexes the annexing area.

4644 (ii) The notice described in Subsection (9)(d)(i)(B) shall state:

4645 (A) that the annexation described in Subsection (9)(d)(i)(B) will result in an enactment
4646 or repeal of a tax under this part for the annexing area;

4647 (B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);

4648 (C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and

4649 (D) the rate of the tax described in Subsection (9)(d)(ii)(A).

4650 (e) (i) Notwithstanding Subsection (9)(d)(i), for a transaction described in Subsection
4651 (9)(e)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

4652 (A) that begins after the effective date of the enactment of the tax; and

4653 (B) if the billing period for the transaction begins before the effective date of the
4654 enactment of the tax under Subsection (1).

4655 (ii) Notwithstanding Subsection (9)(d)(i), for a transaction described in Subsection
4656 (9)(e)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

4657 (A) that began before the effective date of the repeal of the tax; and

4658 (B) if the billing period for the transaction begins before the effective date of the repeal
4659 of the tax imposed under Subsection (1).

4660 (iii) Subsections (9)(e)(i) and (ii) apply to transactions subject to a tax under:

4661 (A) Subsection 59-12-103(1)(b);

4662 (B) Subsection 59-12-103(1)(c);

4663 (C) Subsection 59-12-103(1)(d);

4664 (D) Subsection 59-12-103(1)(e);

4665 (E) Subsection 59-12-103(1)(f);

4666 (F) Subsection 59-12-103(1)(g);

4667 (G) Subsection 59-12-103(1)(h);

4668 (H) Subsection 59-12-103(1)(i);

4669 (I) Subsection 59-12-103(1)(j); or

4670 (J) Subsection 59-12-103(1)(k).

4671 (f) (i) Notwithstanding Subsection (9)(d)(i), if a tax due under this chapter on a
4672 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
4673 enactment or repeal of a tax described in Subsection (9)(d)(i) takes effect:

4674 (A) on the first day of a calendar quarter; and

4675 (B) beginning 60 days after the effective date of the enactment or repeal under
4676 Subsection (9)(d)(i).

4677 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

4678 commission may by rule define the term "catalogue sale."

4679 Section 31. Section **59-12-1703** is amended to read:

4680 **59-12-1703. Opinion question election -- Base -- Rate -- Imposition of tax -- Use**
4681 **of tax revenues -- Administration, collection, and enforcement of tax by commission --**
4682 **Administrative fee -- Enactment or repeal of tax -- Annexation -- Notice.**

4683 (1) (a) [~~Beginning on or after April 1, 2007, and subject~~] Subject to the other
4684 provisions of this part, a county legislative body may impose a sales and use tax of up to .25%:

4685 (i) on the transactions:

4686 (A) described in Subsection 59-12-103(1); and

4687 (B) within the county, including the cities and towns within the county;

4688 (ii) for the purposes described in Subsection (4); and

4689 (iii) in addition to any other sales and use tax authorized under this chapter.

4690 (b) Notwithstanding Subsection (1)(a)(i), a county legislative body may not impose a
4691 tax under this section on:

4692 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are
4693 exempt from taxation under Section 59-12-104; [~~or~~]

4694 (ii) [~~any~~] amounts paid or charged by a seller that collects a tax under Subsection
4695 59-12-107(1)(b)[~~;~~]; and

4696 (iii) except as provided in Subsection (1)(d), amounts paid or charged for food and food
4697 ingredients.

4698 (c) For purposes of this Subsection (1), the location of a transaction shall be determined
4699 in accordance with Section 59-12-207.

4700 (d) A county legislative body imposing a tax under this section shall impose the tax on
4701 amounts paid or charged for food and food ingredients if:

4702 (i) the food and food ingredients are sold as part of a bundled transaction attributable to
4703 food and food ingredients and tangible personal property other than food and food ingredients;
4704 and

4705 (ii) the seller collecting the tax is a seller other than a seller that collects a tax in

4706 accordance with Subsection 59-12-107(1)(b).

4707 (2) (a) Except as provided in Subsection (2)(d), before imposing a tax under this part, a
4708 county legislative body shall:

4709 (i) obtain approval from a majority of the members of the county legislative body to
4710 impose the tax; and

4711 (ii) submit an opinion question to the county's registered voters voting on the
4712 imposition of the tax so that each registered voter has the opportunity to express the registered
4713 voter's opinion on whether a tax should be imposed under this part.

4714 (b) (i) In a county of the first or second class, the opinion question required by
4715 Subsection (2)(a)(ii) shall state the following:

4716 "Shall (insert the name of the county), Utah, be authorized to impose a (insert the
4717 amount of the sales and use tax up to .25%) sales and use tax for corridor preservation,
4718 congestion mitigation, or to expand capacity for regionally significant transportation facilities?"

4719 (ii) In a county of the third, fourth, fifth, or sixth class, the opinion question required by
4720 Subsection (2)(a)(ii) shall state the following:

4721 "Shall (insert the name of the county), Utah, be authorized to impose a (insert the
4722 amount of the sales and use tax up to .25%) sales and use tax for transportation projects,
4723 corridor preservation, congestion mitigation, or to expand capacity for regionally significant
4724 transportation facilities?"

4725 (c) Except as provided in Subsection (2)(d), the election required by this Subsection (2)
4726 shall be held:

4727 (i) at a regular general election conducted in accordance with the procedures and
4728 requirements of Title 20A, Election Code, governing regular elections; or

4729 (ii) at a special election called by the county legislative body that is:

4730 (A) held only on the date of a municipal general election as provided in Subsection
4731 20A-1-202(1); and

4732 (B) authorized in accordance with the procedures and requirements of Section
4733 20A-1-203.

4734 (d) Notwithstanding Subsection (2)(a) or (c), if a county seeks to impose a tax under
4735 this part on or after April 1, 2007, but on or before December 31, 2007, the county legislative
4736 body shall:

4737 (i) obtain the approval required by Subsection (2)(a)(i) within five calendar days of
4738 September 20, 2006;

4739 (ii) direct the county clerk to submit the opinion question required by Subsection
4740 (2)(a)(ii) during the November 7, 2006 general election; and

4741 (iii) hold the election required by this section on November 7, 2006.

4742 (3) If a county legislative body determines that a majority of the county's registered
4743 voters voting on the imposition of the tax have voted in favor of the imposition of the tax in
4744 accordance with Subsection (2), the county legislative body shall impose the tax in accordance
4745 with this section.

4746 (4) (a) Subject to Subsections (5) and (6), the revenues generated by a tax under this
4747 part may only be expended for:

4748 (i) a project or service:

4749 (A) relating to a regionally significant transportation facility;

4750 (B) for the portion of the project or service that is performed within the county;

4751 (C) for new capacity or congestion mitigation if the project or service is performed
4752 within a county:

4753 (I) of the first class;

4754 (II) of the second class; or

4755 (III) that is part of an area metropolitan planning organization;

4756 (D) (I) if the project or service is a principal arterial highway or a minor arterial
4757 highway in a county of the first or second class, that is part of the county and municipal master
4758 plan and part of:

4759 (Aa) the statewide long-range plan; or

4760 (Bb) the regional transportation plan of the area metropolitan planning organization if a
4761 metropolitan planning organization exists for the area; or

4762 (II) if the project or service is for a fixed guideway or an airport, that is part of the
4763 regional transportation plan of the area metropolitan planning organization if a metropolitan
4764 planning organization exists for the area; and

4765 (E) that is on a priority list:

4766 (I) created by the county's council of governments in accordance with Subsection (5);
4767 and

4768 (II) approved by the county legislative body in accordance with Subsection (6);

4769 (ii) corridor preservation for a project described in Subsection (4)(a)(i) as provided in
4770 Subsection (7)(b); or

4771 (iii) any debt service and bond issuance costs related to a project described in
4772 Subsection (4)(a)(i) or (ii).

4773 (b) In a county of the first or second class, a regionally significant transportation facility
4774 project or service described in Subsection (4)(a)(i)(A) must have a funded year priority
4775 designation on a Statewide Transportation Improvement Program and Transportation
4776 Improvement Program if the project or service described in Subsection (4)(a)(i) is:

4777 (i) a principal arterial highway as defined in Section 72-4-102.5;

4778 (ii) a minor arterial highway as defined in Section 72-4-102.5; or

4779 (iii) a major collector highway:

4780 (A) as defined in Section 72-4-102.5; and

4781 (B) in a rural area.

4782 (c) Notwithstanding the designated use of revenues in Subsection (4)(a), of the
4783 revenues generated by the tax imposed under this section by any county of the first or second
4784 class, 25% or more shall be expended for the purpose described in Subsection (4)(a)(ii).

4785 (d) For purposes of this Subsection (4), the revenues a county will receive from a tax
4786 under this part do not include amounts retained by the commission in accordance with
4787 Subsection (8).

4788 (5) (a) The county's council of governments shall create a priority list of regionally
4789 significant transportation facility projects described in Subsection (4)(a) using the process

4790 described in Subsection (5)(b) and present the priority list to the county's legislative body for
4791 approval as described in Subsection (6).

4792 (b) Subject to Sections 59-12-1704 and 59-12-1705, a council of governments shall
4793 establish a council of governments' endorsement process which includes prioritization and
4794 application procedures for use of the revenues a county will receive from a tax under this part.

4795 (6) (a) The council of governments shall submit the priority list described in Subsection
4796 (5) to the county's legislative body and obtain approval of the list from a majority of the
4797 members of the county legislative body.

4798 (b) A county's council of governments may only submit one priority list per calendar
4799 year.

4800 (c) A county legislative body may only consider and approve one priority list per
4801 calendar year.

4802 (7) (a) (i) Except as provided in Subsections (7)(a)(ii) and (7)(b), revenues described in
4803 Subsection (4) shall be transmitted:

4804 (A) by the commission;

4805 (B) to the county;

4806 (C) monthly; and

4807 (D) by electronic funds transfer.

4808 (ii) A county may request that the commission transfer a portion of the revenues
4809 described in Subsection (4):

4810 (A) directly to a public transit district:

4811 (I) organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act; and

4812 (II) designated by the county; and

4813 (B) by providing written notice to the commission:

4814 (I) requesting the revenues to be transferred directly to a public transit district as
4815 provided in Subsection (7)(a)(ii)(A); and

4816 (II) designating the public transit district to which the revenues are requested to be
4817 transferred.

4818 (b) (i) Except as provided in Subsection (7)(b)(ii), revenues generated by a tax under
4819 this part that are allocated for a purpose described in Subsection (4)(a)(ii) shall be:

4820 (A) deposited in or transferred to the Local Transportation Corridor Preservation Fund
4821 created by Section 72-2-117.5; and

4822 (B) expended as provided in Section 72-2-117.5.

4823 (ii) In a county of the first class, revenues generated by a tax under this part that are
4824 allocated for a purpose described in Subsection (4)(a)(ii) shall be:

4825 (A) deposited in or transferred to the Public Transportation System Tax Highway Fund
4826 created by Section 72-2-121; and

4827 (B) expended as provided in Section 72-2-121.

4828 (8) (a) (i) Except as provided in Subsection (8)(b), the tax authorized under this part
4829 shall be administered, collected, and enforced in accordance with:

4830 (A) the same procedures used to administer, collect, and enforce the tax under:

4831 (I) Part 1, Tax Collection; or

4832 (II) Part 2, Local Sales and Use Tax Act; and

4833 (B) Chapter 1, General Taxation Policies.

4834 (ii) A tax under this part is not subject to Subsections 59-12-205(2) through (7).

4835 (b) (i) The commission may retain an amount of tax collected under this part of not to
4836 exceed the lesser of:

4837 (A) 1.5%; or

4838 (B) an amount equal to the cost to the commission of administering this part.

4839 (ii) Any amount the commission retains under Subsection (8)(b)(i) shall be:

4840 (A) placed in the Sales and Use Tax Administrative Fees Account; and

4841 (B) used as provided in Subsection 59-12-206(2).

4842 (9) (a) (i) Except as provided in Subsection (9)(b) or (c), if, on or after April 1, 2007, a
4843 county enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal,
4844 or change shall take effect:

4845 (A) on the first day of a calendar quarter; and

4846 (B) after a 90-day period beginning on the date the commission receives notice meeting
4847 the requirements of Subsection (9)(a)(ii) from the county.

4848 (ii) The notice described in Subsection (9)(a)(i)(B) shall state:

4849 (A) that the county will enact, repeal, or change the rate of a tax under this part;

4850 (B) the statutory authority for the tax described in Subsection (9)(a)(ii)(A);

4851 (C) the effective date of the tax described in Subsection (9)(a)(ii)(A); and

4852 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
4853 (9)(a)(ii)(A), the rate of the tax.

4854 (b) (i) For a transaction described in Subsection (9)(b)(iii), if the billing period for the
4855 transaction begins before the effective date of the enactment of the tax or tax rate increase
4856 under Subsection (1), the enactment of a tax or a tax rate increase shall take effect on the first
4857 day of the first billing period that begins after the effective date of the enactment of the tax or
4858 the tax rate increase.

4859 (ii) For a transaction described in Subsection (9)(b)(iii), if the billing period for the
4860 transaction begins before the effective date of the repeal of the tax or the tax rate decrease
4861 imposed under Subsection (1), the repeal of a tax or a tax rate decrease shall take effect on the
4862 first day of the last billing period that began before the effective date of the repeal of the tax or
4863 the tax rate decrease.

4864 (iii) Subsections (9)(b)(i) and (ii) apply to transactions subject to a tax under:

4865 (A) Subsection 59-12-103(1)(b);

4866 (B) Subsection 59-12-103(1)(c);

4867 (C) Subsection 59-12-103(1)(d);

4868 (D) Subsection 59-12-103(1)(e);

4869 (E) Subsection 59-12-103(1)(f);

4870 (F) Subsection 59-12-103(1)(g);

4871 (G) Subsection 59-12-103(1)(h);

4872 (H) Subsection 59-12-103(1)(i);

4873 (I) Subsection 59-12-103(1)(j); or

4874 (J) Subsection 59-12-103(1)(k).

4875 (c) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
4876 sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of
4877 a tax described in Subsection (9)(a)(i) takes effect:

4878 (A) on the first day of a calendar quarter; and

4879 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
4880 rate of the tax under Subsection (9)(a)(i).

4881 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
4882 commission may by rule define the term "catalogue sale."

4883 (d) (i) Except as provided in Subsection (9)(e) or (f), if, for an annexation that occurs
4884 on or after April 1, 2007, the annexation will result in the enactment, repeal, or change in the
4885 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take
4886 effect:

4887 (A) on the first day of a calendar quarter; and

4888 (B) after a 90-day period beginning on the date the commission receives notice meeting
4889 the requirements of Subsection (9)(d)(ii) from the county that annexes the annexing area.

4890 (ii) The notice described in Subsection (9)(d)(i)(B) shall state:

4891 (A) that the annexation described in Subsection (9)(d)(i)(B) will result in an enactment,
4892 repeal, or change in the rate of a tax under this part for the annexing area;

4893 (B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);

4894 (C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and

4895 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
4896 (9)(d)(ii)(A), the rate of the tax.

4897 (e) (i) For a transaction described in Subsection (9)(e)(iii), if the billing period for the
4898 transaction begins before the effective date of the enactment of the tax or a tax rate increase
4899 under Subsection (1), the enactment of a tax or a tax rate increase shall take effect on the first
4900 day of the first billing period that begins after the effective date of the enactment of the tax or
4901 the tax rate increase.

(ii) For a transaction described in Subsection (9)(e)(iii), if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period that began before the effective date of the repeal of the tax or the tax rate decrease.

(iii) Subsections (9)(e)(i) and (ii) apply to transactions subject to a tax under:

(A) Subsection 59-12-103(1)(b);

(B) Subsection 59-12-103(1)(c);

(C) Subsection 59-12-103(1)(d);

(D) Subsection 59-12-103(1)(e);

(E) Subsection 59-12-103(1)(f);

(F) Subsection 59-12-103(1)(g);

(G) Subsection 59-12-103(1)(h);

(H) Subsection 59-12-103(1)(i);

(I) Subsection 59-12-103(1)(j); or

(J) Subsection 59-12-103(1)(k).

(f) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (9)(d)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate under Subsection (9)(d)(i).

(ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

Section 32. Section **59-12-1801** is enacted to read:

Part 18. Additional State Sales and Use Tax Act

59-12-1801. Title.

This part is known as the "Additional State Sales and Use Tax Act.

4930 Section 33. Section **59-12-1802** is enacted to read:

4931 **59-12-1802. State sales and use tax -- Base -- Rate -- Revenues deposited into**
4932 **General Fund.**

4933 (1) If a county does not impose a tax under Part 11, County Option Sales and Use Tax,
4934 a tax shall be imposed within the county under this section by the state:

4935 (a) on the transactions described in Subsection 59-12-103(1);

4936 (b) at a rate of .25%; and

4937 (c) beginning on January 1, 2008, and ending on the day on which the county imposes a
4938 tax under Part 11, County Option Sales and Use Tax.

4939 (2) Notwithstanding Subsection (1), a tax under this section may not be imposed on the
4940 sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from
4941 taxation under Section 59-12-104.

4942 (3) For purposes of Subsection (1), the location of a transaction shall be determined in
4943 accordance with Section 59-12-207.

4944 (4) Revenues collected from the sales and use tax imposed by this section, after
4945 subtracting amounts a seller retains in accordance with Section 59-12-108, shall be deposited
4946 into the General Fund.

4947 Section 34. Section **59-12-1803** is enacted to read:

4948 **59-12-1803. Enactment or repeal of tax -- Effective date -- Administration,**
4949 **collection, and enforcement of tax.**

4950 (1) Subject to Subsections (2) and (3), a tax rate repeal or a tax rate change for a tax
4951 imposed under this part shall take effect on the first day of a calendar quarter.

4952 (2) (a) For a transaction described in Subsection (2)(c), the enactment of a tax shall
4953 take effect on the first day of the first billing period that begins after the effective date of the
4954 enactment of the tax if the billing period for the transaction begins before the effective date of
4955 the tax under this part.

4956 (b) For a transaction described in Subsection (2)(c), the repeal of a tax shall take effect
4957 on the first day of the last billing period that began before the effective date of the repeal of the

4958 tax if the billing period for the transaction begins before the effective date of the repeal of the
4959 tax imposed under this part.

4960 (c) Subsections (2)(a) and (b) apply to transactions subject to a tax under:

4961 (i) Subsection 59-12-103(1)(b);

4962 (ii) Subsection 59-12-103(1)(c);

4963 (iii) Subsection 59-12-103(1)(d);

4964 (iv) Subsection 59-12-103(1)(e);

4965 (v) Subsection 59-12-103(1)(f);

4966 (vi) Subsection 59-12-103(1)(g);

4967 (vii) Subsection 59-12-103(1)(h);

4968 (viii) Subsection 59-12-103(1)(i);

4969 (ix) Subsection 59-12-103(1)(j); or

4970 (x) Subsection 59-12-103(1)(k).

4971 (3) (a) If a tax due under this part on a catalogue sale is computed on the basis of sales
4972 and use tax rates published in the catalogue, an enactment or repeal of a tax under this part
4973 takes effect:

4974 (i) on the first day of a calendar quarter; and

4975 (ii) beginning 60 days after the effective date of the enactment or repeal of the tax under
4976 this part.

4977 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
4978 commission may by rule define the term "catalogue sale."

4979 (4) A tax imposed by this part shall be administered, collected, and enforced in
4980 accordance with:

4981 (a) the same procedures used to administer, collect, and enforce the tax under Part 1,
4982 Tax Collection; and

4983 (b) Chapter 1, General Taxation Policies.

4984 Section 35. Section **59-26-102** is amended to read:

4985 **59-26-102. Definitions.**

4986 As used in this chapter:

4987 (1) "County or municipality franchise fee" means a franchise fee that a county or
4988 municipality receives from a multi-channel video or audio service provider.

4989 (2) "Franchise fee" is as defined in 47 U.S.C. Sec. 542, except that the term "cable
4990 operator" or "cable subscriber" shall be interpreted to include a multi-channel video or audio
4991 service provider.

4992 ~~[(1) "multi-channel"]~~ (3) (a) "Multi-channel video or audio service provider" means any
4993 person or group of persons that:

4994 ~~[(a)]~~ (i) provides multi-channel video or audio service and directly or indirectly owns a
4995 significant interest in the multi-channel video or audio service; or

4996 ~~[(b)]~~ (ii) otherwise controls or is responsible through any arrangement, the management
4997 and operation of the multi-channel video or audio service~~[-and]~~.

4998 ~~[(2) "multi-channel"]~~ (b) "Multi-channel video or audio service provider" includes the
4999 following except as specifically exempted by state or federal law:

5000 ~~[(a)]~~ (i) a cable operator;

5001 ~~[(b)]~~ (ii) a CATV provider;

5002 ~~[(c)]~~ (iii) a multi-point distribution provider;

5003 ~~[(d)]~~ (iv) a MMDS provider;

5004 ~~[(e)]~~ (v) a SMATV operator;

5005 ~~[(f)]~~ (vi) a direct-to-home satellite service provider; or

5006 ~~[(g)]~~ (vii) a DBS provider.

5007 (4) "Municipality" means a city or town.

5008 Section 36. Section **59-26-103** is amended to read:

5009 **59-26-103. Imposition of tax -- Rate.**

5010 ~~[Beginning on July 1, 2004]~~ Subject to Section 59-26-104.5, there is imposed as
5011 provided in this part a tax on the purchaser equal to 6.25% of amounts paid or charged for
5012 multi-channel video or audio service provided by a multi-channel video or audio service
5013 provider:

5014 (1) within the state; and

5015 (2) to the extent permitted by federal law.

5016 Section 37. Section **59-26-104.5** is enacted to read:

5017 **59-26-104.5. Nonrefundable credit against tax -- Amounts passed through to**
5018 **customers within the state -- Tax may not be reduced by amounts passed through to**
5019 **customers within the state.**

5020 (1) Beginning on January 1, 2008, a multi-channel video or audio service provider may
5021 claim a nonrefundable tax credit as provided in this section.

5022 (2) The nonrefundable tax credit described in Subsection (1):

5023 (a) may be claimed against the tax the multi-channel video or audio service provider
5024 would otherwise be required to collect under this chapter from its purchasers within the state;
5025 and

5026 (b) is in an amount equal to 50% of the total amount of county or municipality franchise
5027 fees that the multi-channel video or audio service provider pays:

5028 (i) to all of the counties and municipalities within the state that impose a county or
5029 municipality franchise fee; and

5030 (ii) for the calendar quarter for which the multi-channel video or audio service provider
5031 files a return under this chapter.

5032 (3) The nonrefundable tax credit described in Subsection (1) may not be carried
5033 forward or carried back.

5034 (4) (a) Subject to Subsections (4)(b) and (c), a multi-channel video or audio service
5035 provider shall pass through to its purchasers within the state an amount equal to the amount of
5036 the nonrefundable tax credit the multi-channel video or audio service provider claims for a
5037 calendar quarter.

5038 (b) The amount that a multi-channel video or audio service provider passes through to
5039 its purchasers within the state under Subsection (4)(a) shall be passed through during the same
5040 calendar quarter as the calendar quarter for which the multi-channel video or audio service
5041 provider claims the nonrefundable tax credit.

5042 (c) A tax under this chapter on amounts paid or charged for multi-channel video or
5043 audio service may not be reduced as a result of the amount a multi-channel video or audio
5044 service provider passes through to its customers within this state under this Subsection (4).

5045 Section 38. **Revenue and Taxation Interim Committee study.**

5046 During the 2007 interim, the Revenue and Taxation Interim Committee shall, with the
5047 assistance of the Utah Tax Review Commission, draft legislation to repeal the state individual
5048 income tax imposed on the basis of graduated brackets and rates.

5049 Section 39. **Appropriations.**

5050 There is appropriated:

5051 (1) for fiscal year 2007-08 only, \$277,500 from the General Fund to the Rural Health
5052 Care Facilities Fund created by Section 26-9-4 to fund the distributions required by Section
5053 26-9-4; and

5054 (2) as an ongoing appropriation subject to future budget constraints, \$555,000 from the
5055 General Fund for fiscal year 2008-09, to the Rural Health Care Facilities Fund created by
5056 Section 26-9-4 to fund the distributions required by Section 26-9-4.

5057 Section 40. **Effective dates -- Retrospective operation.**

5058 (1) Except as provided in Subsections (2) through (9), this bill takes effect on January
5059 1, 2008.

5060 (2) The amendments to Section 59-1-901 take effect on April 30, 2007.

5061 (3) The enactment of uncodified Section 38, Revenue and Taxation Interim Committee
5062 study, takes effect on April 30, 2007.

5063 (4) The enactment of uncodified Section 39, Appropriations, takes effect on July 1,
5064 2007.

5065 (5) The amendments to the following take effect for taxable years beginning on or after
5066 January 1, 2008:

5067 (a) Section 59-7-612;

5068 (b) Section 59-10-104;

5069 (c) Section 59-10-1012;

5070 (d) Section 59-10-1202; and
5071 (e) Section 59-10-1203.
5072 (6) The enactments of the following take effect for taxable years beginning on or after
5073 January 1, 2008:
5074 (a) Section 59-10-1206.1;
5075 (b) Section 59-10-1206.2; and
5076 (c) Section 59-10-1206.9.
5077 (7) The repeal and reenactment of Section 59-7-614:
5078 (a) takes effect on April 30, 2007; and
5079 (b) has retrospective operation for taxable years beginning on or after January 1, 2007.
5080 (8) The amendments to Section 59-10-1014:
5081 (a) take effect on April 30, 2007; and
5082 (b) have retrospective operation for taxable years beginning on or after January 1, 2007.
5083 (9) The enactment of Section 59-10-1106:
5084 (a) takes effect on April 30, 2007; and
5085 (b) has retrospective operation for taxable years beginning on or after January 1, 2007.
5086 Section 41. **Revisor instructions.**
5087 It is the intent of the Legislature that, in preparing the Utah Code database for
5088 publication, the Office of Legislative Research and General Counsel shall replace the reference
5089 in Subsection 26-9-4(5)(a)(i)(A) from "this bill" to the bill's designated chapter and section
5090 number in the Laws of Utah.
5091 Section 42. **Coordinating S.B. 223 with H.B. 27 -- Merging substantive**
5092 **amendments.**
5093 If this S.B. 223 and H.B. 27, Sales and Use Tax Modifications, both pass, it is the intent
5094 of the Legislature that the Office of Legislative Research and General Counsel, in preparing the
5095 Utah code database for publication, as part of merging the tax rate changes enacted by this S.B.
5096 223, modify Section 59-12-103 that takes effect on January 1, 2008, to:
5097 (1) replace the tax rate of 2.75% in Subsection 59-12-103(2)(c)(i) with 1.75%; and

5098

(2) replace the tax rate of 2.75% in Subsection 59-12-103(2)(d)(i)(C) with 1.75%.